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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[FV-01-705-FR]

RIN 0581-AB92

Hass Avocado Promotion, Research, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the Hass Avocado Promotion, Research, and Information Order (Order). This industry-funded program is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 (Act). Under the Order, producers and importers will pay an initial assessment of 2.5 cents per pound on fresh Hass avocados produced in or imported into the United States for consumption in the United States. Exports of U.S. Hass avocados are exempt from assessment. Initially only fresh domestic and imported Hass avocados will be assessed. The Hass Avocado Board (Board) will be appointed by the U.S. Department of Agriculture (USDA or the Department) to conduct research, promotion, industry information, and consumer information needed for the maintenance, expansion, and development of domestic markets for Hass avocados.

DATES: Effective September 9, 2002. Collection and remittance of assessments and applicable reporting will begin on January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Julie Morin, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535-S, Washington, DC 20250-0244, telephone (202) 720-6930, fax (202) 205-2800, e-mail julie.morin@usda.gov.

SUPPLEMENTARY INFORMATION: This Order is issued under the Hass Avocado Promotion, Research, and Information Act of 2000 (Act) (7 U.S.C. 7801-7813), enacted on October 23, 2000.

Prior documents: Proposed rules on both the Order (66 FR 36870) and the referendum procedures (66 FR 36886) were published in the **Federal Register** on July 13, 2001, each with a 45-day comment period. Subsequently, the USDA published a notice in the **Federal Register** on August 28, 2001 (66 FR 4158), extending both comment periods by 15 days, to September 12, 2001. A second proposed rule on the Order (67 FR 7290) and a final rule on the referendum procedures (67 FR 7261) were published in the February 19, 2002, issue of the **Federal Register**. Corrections to both of these rulemakings were published in the March 25, 2002, issue of the **Federal Register** (67 FR 13563; 67 FR 13577). A referendum order was published in the April 9, 2002, issue of the **Federal Register** (67 FR 17018).

Question and Answer Overview

Why Is the Final Rule Being Published?

In a recent referendum, eligible producers and importers of Hass avocados voted in favor of implementing the Order. This action completes this rulemaking process.

What Is the Purpose of the Hass Avocado Program?

The purpose of the program is to increase consumption of Hass avocados in the United States.

Who Will Be Covered by the Program?

Producers and importers of Hass avocados will pay assessments under the program, and first handlers will be involved in the assessment collection process.

Who Will Sit on the Board?

The Act provides that there will be a 12-member Board consisting of seven domestic Hass avocado producers, two importers, and three additional members who can either be importers or domestic producers. The three "swing" seats will be allocated to producers and importers so as to assure as nearly as possible that the composition of the Board reflects the proportion of domestic production and imports supplying the United States market. The

proportion will be based on the average volume of domestic production and imports in the United States over the previous three years. Each member will have an alternate.

How Will Members of the Board Be Selected?

The Order provides for a nomination and election process to identify industry members who are interested and willing to serve on the Board. In the initial nomination process, the California Avocado Commission (Commission) will conduct an election to determine who will be nominated for each domestic producer seat. USDA will conduct an election among importers to determine who will be nominated to fill the importer seats. Two names must be submitted for each member and each alternate position. From the names submitted, USDA will appoint the members and alternates of the Board.

Executive Orders 12866 and 12988

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 1212 of the Act states that the Act may not be construed to preempt or supersede any other program relating to Hass avocado promotion, research, industry information, and consumer information organized and operated under the laws of the United States or of a state.

Under Section 1207 of the Act, a person subject to the Order may file a petition with USDA stating that the Order, any provision for the Order, or any obligation imposed in connection with the Order, is not established in accordance with law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States in any district in which the

petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has examined the impact of this rule on small entities and prepared a final regulatory flexibility analysis that was included in the proposed rule published in the **Federal Register** on February 19, 2002. This analysis indicates that the Agency minimized the economic impacts of the Order provisions on small entities to the fullest extent reasonably possible while adhering to the program's objectives.

In addition, the Order provisions were carefully reviewed, and every effort was made to minimize any unnecessary information collection and recordkeeping costs or requirements. In accordance with OMB regulation (5 CFR (part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collection and recordkeeping requirements that are imposed by this Order were submitted to OMB and approved under OMB control numbers 0581-0197 and 0505-0001. The information collection numbers differ from what was published in the February 19, 2002, proposed rule because the rule inadvertently omitted OMB number 0505-0001 for the background nomination form. Section 1219.77 is corrected to add this OMB control number.

Copies of the final regulatory flexibility analysis and the discussion of the information collection and recordkeeping requirements contained in this rulemaking can be obtained from Julie Morin at the address listed above or by e-mail at julie.morin@usda.gov.

Background

The Act authorizes the Department to establish a Hass avocado research, promotion, and information program. The program will be funded by an assessment levied on producers and importers of Hass avocados of 2.5 cents per pound of Hass avocados. The rate may be raised up to a maximum rate of 5 cents per pound. Exports of U.S. Hass avocados are exempt from assessment. The Act authorizes assessments on domestic Hass avocados and on imports of fresh, frozen, and processed Hass avocados. Initially, only fresh domestic and imported Hass avocados will be assessed.

The Board will use the funds to pay for research, promotion, industry information, and consumer information; administration, maintenance, and functioning of the Board; and expenses incurred by USDA in implementing and administering the Order, including referendum costs.

The Board will be composed of 12 voting members; 7 producers, 2 importers, and 3 producer and importers (swing seats). The three "swing" seats will be allocated to producers and importers so as to assure as nearly possible that the composition of the Board reflects the proportion of domestic production and imports supplying the United States market, based on the three-year average of domestic production and imports.

The producer assessment will be collected by first handlers, and the importer assessment will be collected by the U.S. Customs Service.

A state association of avocado producers (currently, the Commission) will receive 85 percent of the assessments paid by domestic producers, and importer associations will receive 85 percent of the assessments paid by their members. The state association could use the assessment funds to promote California Hass avocados in the United States, and the importer associations could use the assessments to promote Hass avocados on a country-of-origin basis in the United States. The funds remaining with the Board would be used to promote Hass avocados generically in the United States. The Board would also enter into contracts with the state association as provided for in the Act.

USDA issued a news release on January 8, 2001, requesting proposals for an initial Order or portions of an initial Order by February 7, 2001. A second news release, extending the deadline for submission of proposals to March 9, 2001, was issued on February 2, 2001.

An entire proposed Order was submitted by the Commission. In addition, proposals containing portions of an Order were submitted by the Asociacion de Productores y Empacadores Exportadores de Aguacate de Michoacan (APEAM); the Chilean Exporters Association (ASOEX), Chilean Fruit Growers Federation (FEDERUTA), and Comite de Paltas de Chile; and the New Zealand Avocado Growers Association (NZAGA) and the New Zealand Avocado Industry Council (NZAIC). USDA published a proposed rule on July 13, 2001, for comment. A second proposed rule was published on February 19, 2002. A referendum order that set the registration period from May

13-31, 2002, and voting period from June 24-July 12, 2002, was published on April 9, 2002. In the referendum, producers and importers of Hass avocados voted to implement the program.

The Order is summarized as follows: Sections 1219.1 through 1219.26 of the Order define certain terms, such as Hass avocado, handler, producer, and importer, which are used in the Order.

Sections 1219.30 through 1219.42 include provisions relating to the establishment, adjustment, and membership; nominations; appointment; term of office; vacancies; reimbursement; and the powers and duties of the Board.

The Board will be the body organized to administer the Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about Hass avocados, under the supervision of USDA. Further, the Board will be authorized to incur expenses necessary for the performance of its duties and to establish a reserve fund.

Sections 1219.50 through 1219.58 authorize the collection of assessments, specify who pays them and how, and specify persons who will be exempt from paying the assessment. The assessment rate may not exceed 5 cents per pound of Hass avocados. The assessment sections also outline the procedures to be followed by first handlers and importers for remitting assessments and establish interest charges for unpaid or late assessments.

Sections 1219.60 through 1219.65 concern reporting and recordkeeping requirements for persons subject to the Order; the confidentiality of information obtained from such books, records, or reports; and the maintenance of lists of importers and producers.

Sections 1219.70 through 1219.77 describe the rights of the Secretary of Agriculture; the authority for the Department to suspend or terminate the Order; proceedings after termination; the effect of termination or amendment; personal liability of Board members and staff; separability; amendments; and OMB control numbers.

General Findings

The Department conducted a referendum among producers and importers of Hass avocados from June 24 through July 12, 2002, to determine whether the Order would become effective. The representative period for establishing voter eligibility was from January 1, 2000, through December 31, 2001. It is determined that a majority of the eligible producers and importers

voting in the referendum favored implementation of the Order. After consideration of all relevant materials presented, including the proposals, comments received, and the referendum results, it is found that the Order is consistent with and effectuates the policy and purpose of the Act.

Pursuant to the provision in 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Act requires implementation of the Order if the Order is approved by the Hass avocado industry; (2) the industry approved the Order in a recent referendum; (3) the Order cannot be fully implemented until this rule becomes effective and the Board is appointed; and (4) no useful purpose would be served by delaying the effective date of this action. Further, collection and remittance of assessments and applicable reporting will begin on January 2, 2003. If the Board is not in place on the effective date of the Order, the Order provides for the Department to receive assessments on the Board's behalf.

List of Subjects in 7 CFR Part 1219

Administrative practice and procedure, Advertising, Consumer Information, Marketing agreements, Hass avocados, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7 of chapter XI of the Code of Federal Regulations is amended as follows:

PART 1219—HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION

1. The authority citation for part 1219 continues to read as follows:

Authority: 7 U.S.C. 7801–7813.

2. Subpart A is added to part 1219 to read as follows:

Subpart A—Hass Avocado Promotion, Research, and Information Order

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- 1219.2 Association.
- 1219.3 Conflict of interest.
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- 1219.12 Hass avocado.
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Subpart A—Hass Avocado Promotion, Research, and Information Order

Definitions

§ 1219.1 Act.

Act means the Hass Avocado Promotion, Research, and Information Act of 2000, Public Law 106–387, 7

U.S.C. 7801–7813, and any amendments thereto.

§ 1219.2 Association.

Association means an avocado organization established by State statute in a State with the majority of Hass avocado production in the United States.

§ 1219.3 Conflict of interest.

Conflict of interest means a situation in which a Board member or employee has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1219.4 Consumer information.

Consumer information means any action or program that disseminates or otherwise provides information to consumers and other persons, on the use, nutritional attributes, and other information that will assist consumers and other persons in the United States in making evaluations and decisions regarding the purchase, preparation, and use of Hass avocados.

§ 1219.5 Crop year.

Crop year means the period from November 1 of one year through October 31 of the following year, or such other one-year period recommended by the Board and approved by the Secretary.

§ 1219.6 Customs.

Customs means the United States Customs Service.

§ 1219.7 Department.

Department means the United States Department of Agriculture.

§ 1219.8 Exempt handler.

Exempt handler means a person who would otherwise be considered a first handler, except that all Hass avocados purchased by the person have already been subject to assessments under the Order. A person who handles both Hass avocados that have already been subject to assessments under the Order and Hass avocados that have not been subject to assessments under the Order is a first handler.

§ 1219.9 First handler.

First handler means a person operating in the Hass avocado marketing system that sells domestic or imported Hass avocados for consumption in the United States and who is responsible for remitting assessments to the Board. For the purposes of the Order, the term means the first person who handles Hass avocados for sale (except a common or contract carrier of Hass avocados owned by another person),

including a producer who handles Hass avocados for sale of the producer's own production.

§ 1219.10 Fiscal period or marketing year.

Fiscal period or marketing year means the period beginning on November 1 of any year and extending through the last day of October of the following year, or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

§ 1219.11 Handle.

Handle means to pack, process, transport, purchase, or in any other way to place or cause Hass avocados to which one has title or possession to be placed in the current of commerce. Such term shall not include the transportation or delivery of Hass avocados by the producer thereof to a handler.

§ 1219.12 Hass avocado.

Hass avocado means the fruit grown in or imported into the United States of the species *Persea americana* Mill., or other type of avocados that, in the determination of the Board, with approval of the Secretary, is so similar to the Hass variety avocado as to be indistinguishable to consumers in fresh form. The term shall include all fruit in fresh, frozen, or any other processed form.

§ 1219.13 Hass Avocado Board.

Hass Avocado Board or the Board means the administrative body established pursuant to § 1219.40.

§ 1219.14 Importer.

Importer means any person who imports Hass avocados into the United States. The term includes a person who holds title to Hass avocados produced outside of the United States immediately upon release by Customs, as well as any person who acts on behalf of others, as an agent, broker, or consignee, to secure the release of Hass avocados from Customs and the introduction of the released Hass avocados into the current of commerce and who is listed in the import records of Customs as the importer of record for such Hass avocados.

§ 1219.15 Industry information.

Industry information means information, programs, and activities that are designed to increase efficiency in processing, enhance the development of new markets and marketing strategies, increase marketing efficiency, and enhance the image of Hass avocados and the Hass avocado industry in the United States.

§ 1219.16 Marketing.

Marketing means any activity related to the sale or other disposition of Hass avocados in any channel of commerce.

§ 1219.17 Order.

Order means this subpart.

§ 1219.18 Part and subpart.

Part means the Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order itself shall be a *subpart* of such part.

§ 1219.19 Person.

Person means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, cooperative, or any other legal entity.

§ 1219.20 Producer.

Producer means any person who is engaged in the business of producing Hass avocados in the United States for commercial use, who owns, or shares the ownership and risk of loss, of such Hass avocados.

§ 1219.21 Programs, plans, and projects.

Programs, plans, and projects means those research, promotion, and information programs, plans, studies, or projects established pursuant to § 1219.50.

§ 1219.22 Promotion.

Promotion means any action to advance the image, desirability, or marketability of Hass avocados in the United States, including paid advertising, sales promotion, and publicity. Promotion activities are designed to improve the competitive position and stimulate sales of Hass avocados in the domestic marketplace.

§ 1219.23 Research.

Research means any type of test, study, or analysis relating to market research, market development, and market efforts, or relating to the use, quality, or nutritional value of Hass avocados, other related food science research, or research designed to advance the knowledge, image, desirability, usage, or marketability of Hass avocados in the United States.

§ 1219.24 Secretary.

Secretary means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1219.25 State.

State means any of the several 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 1219.26 United States.

United States means collectively the several 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, and the Federated States of Micronesia.

The Hass Avocado Board

§ 1219.30 Establishment and membership.

(a) A Hass Avocado Board, called the Board elsewhere in this part, is hereby established to administer the terms and provisions of this subpart. The Board shall consist of 12 members nominated by the Hass avocado industry and appointed by the Secretary as provided in this subpart, each of whom shall have an alternate nominated and appointed in the same manner as members of the Board are nominated and appointed. Board members and alternates shall be domiciled in the United States.

(b) The membership of the Board shall be divided as follows:

(1) Seven members and their alternates shall be producers of Hass avocados that are subject to assessments under this subpart;

(2) Two members and their alternates shall be importers of Hass avocados that are subject to assessments under this subpart; and

(3) Three members shall be producers of Hass avocados that are subject to assessments under this subpart or importers of Hass avocados that are subject to assessments under this subpart. Producers and importers shall be allocated to these positions so as to assure as nearly as possible that the composition of the 12-member Board reflects the proportion of domestic production and imports supplying the United States market. Such proportion shall be based on the Secretary's determination of the average volume of domestic production and the average volume of imports into the United States market over the previous three years, based on all information available to the Secretary.

(c) Three years after the assessment of funds commences pursuant to this

subpart, and at the end of each three-year period thereafter, the Board shall review the production of domestic Hass avocados in the United States and the volume of imported Hass avocados on the basis of the amount of assessments collected from producers and importers over the immediately preceding three-year period and, if warranted, recommend to the Secretary the reapportionment of the positions authorized in paragraph (b)(3) of this section to reflect changes in the proportion of domestic Hass avocado production to the volume of imported Hass avocados, to the extent possible in the Act. Any adjustment under this paragraph shall be subject to the review and approval of the Secretary.

(d) For purposes of this section, *importer* means a person who is involved in, as a substantial activity, the importation of Hass avocados for sale or marketing in the United States (either directly or as an agent, broker, or consignee of any person that produces Hass avocados outside of the United States for sale in the United States), who is subject to assessments under the Order, and who is listed by Customs as the importer of record for such Hass avocados. A substantial activity means that the volume of a person's Hass avocado imports must exceed the volume of the person's production or handling of domestic Hass avocados.

§ 1219.31 Initial nomination and appointment of producer members and alternates.

(a) The Association will nominate producer members and alternates to serve on the Board in accordance with the following procedures.

(1) The Association shall establish a list of producers in the United States who are eligible to serve on the Board and notify all producers that they may nominate persons to serve as members and alternates on the Board.

(2) After names are received from the producers, the Association shall prepare a ballot with the names of all persons nominated and mail it to all producers to allow them the opportunity to vote for the persons who will represent their interests on the Board.

(3) After tabulating the vote, the Association shall announce the results and submit two names for each producer member and two names for each alternate producer member to the Secretary from the persons receiving the highest number of votes.

(b) The Secretary shall select the producer members and alternates of the Board from the names submitted by the Association. Following the selection of the producer members, the Secretary

shall select the alternate producer members. In selecting the alternate members, the Secretary shall consider the names submitted by the Association for each alternate member position along with the individuals whose names were submitted by the Association for each Board member position but were not selected for that position.

§ 1219.32 Initial nomination and appointment of importer members and alternates.

(a) The Department will conduct the nomination process for the initial importer members and alternates on the Board in accordance with the following procedures.

(1) The Department shall notify all known importers and importer organizations that they may nominate persons to serve as importer members and alternates on the Board.

(2) After names are received from the importers and importer organizations, the Department shall prepare a ballot with the names of all persons nominated and mail it to all known importers to allow them the opportunity to vote for the persons who will represent their interests on the Board.

(3) After tabulating the vote, the Department shall announce the results and submit two names for each importer member and two names for each alternate importer member to the Secretary from the persons receiving the highest number of votes.

(b) The Secretary shall select the importer members and alternates of the Board from the nominees elected by importers. Following the selection of the importer members, the Secretary shall select the alternate importer members. In selecting the alternate members, the Secretary shall consider the names for each alternate member position along with the individuals who were elected by importers for each Board member position but were not selected for that position.

§ 1219.33 Subsequent nomination and appointment of Board members and alternates.

The Board's staff shall announce at least 150 days in advance of the expiration of members' and alternates' terms that such terms are expiring and shall solicit nominations in accordance with procedures recommended by the Board and approved by the Secretary. Nominations for such positions should be submitted to the Secretary no less than 90 days prior to the expiration of the terms.

§ 1219.34 Failure to nominate.

In any case in which producers or importers fail to nominate individuals

for appointment to the Board, the Secretary may appoint individuals to fill vacancies from the appropriate segments of the industry.

§ 1219.35 Term of office.

The members and alternate members of the Board shall serve for terms of three years, except the members of the initial Board shall serve terms as follows: Four members and four alternates shall serve for two-year terms; four members and four alternates shall serve for three-year terms; and four members and four alternates shall serve for four-year terms. No member shall serve more than two consecutive three-year terms. Members and alternates serving initial two-year or four-year terms may serve for one additional three-year term. A Board member may serve as an alternate during the years the member is ineligible for a member position. Each term of office will end on October 31, with new terms of office beginning on November 1.

§ 1219.36 Vacancies.

(a) In the event any member or alternate of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such member or alternate shall be disqualified from serving on the Board and the position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that the member be removed from office. If the Secretary finds that the recommendation of the Board shows adequate cause, the member shall be removed from office.

(c) Should any Board member position become vacant in the event of the death, removal, resignation, or disqualification, the alternate of that member shall automatically assume the position of said member. The alternate shall serve until the end of the member's normal term. If there is no alternate member to assume the position of member, the successor member and alternate shall be nominated and selected in the manner specified in §§ 1219.31, 1219.32, or 1219.33.

(d) Should any alternate member become vacant in the event of death, removal, resignation, or disqualification, the Board may nominate persons to serve for the unexpired term of such alternate member. The nomination shall be conducted at a regularly scheduled Board meeting as soon as practicable after the vacancy occurs. The Board may

solicit the names of nominees from producers and importers prior to the meeting and from the floor of the meeting. All nominees must meet the qualifications for nomination. The Board shall submit two nominees for each vacancy to the Secretary. A vacancy will not be required to be filled if the unexpired term is less than six months.

§ 1219.37 Alternate members.

An alternate member of the Board, during the absence of the member for whom the person is the alternate, shall act in the place and stead of such member and perform such duties as assigned. In the event of the death, removal, resignation, or disqualification of any member, the alternate for that member shall automatically assume the position of said member. In the event that both a member of the Board and the alternate are unable to attend a meeting, the Board may not designate any other alternate to serve in such member's or alternate's place and stead for the meeting.

§ 1219.38 Powers and duties.

The Board shall have the following powers and duties in addition to the responsibilities and authorities specified in other sections of this subpart:

- (a) To administer the Order in accordance with its terms and conditions and to collect assessments;
- (b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board and such rules as may be necessary to administer the Order, including activities authorized to be carried out under the Order;
- (c) To meet, organize, and select from among the members of the Board a chairperson, other officers, committees, and subcommittees, at the start of each fiscal period, and at such other times as the Board determines to be appropriate;
- (d) To recommend to the Secretary rules and regulations to effectuate the terms and conditions of this subpart;
- (e) To employ such persons, other than the members, as the Board considers necessary to assist the Board in carrying out its duties and to determine the compensation and specify the duties of such persons;
- (f) To appoint from its members an executive committee and to delegate to the committee authority to administer the terms and provisions of this subpart under the direction of the Board and within the policies determined by the Board and approved by the Secretary;
- (g) To develop budgets for the implementation of this subpart and

submit the budgets to the Secretary for approval and to propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval programs, plans, and projects for Hass avocado promotion, industry information, consumer information, or related research;

(h) To develop and implement after the approval by the Secretary programs, plans, and projects for Hass avocado promotion, industry information, consumer information, or related research, to contract or enter into agreements with appropriate persons to implement the programs, plans, and projects, and to pay the costs of the implementation of contracts and agreements with funds collected under this subpart.

(i) To maintain such records and books and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(j) To work to achieve an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to strengthen the Hass avocado industry's position in the domestic marketplace; to maintain and expand existing domestic markets and uses for Hass avocados; to create new domestic markets; and to carry out programs, plans, and projects designed to provide maximum benefits to the Hass avocado industry;

(k) To evaluate on-going and completed programs, plans, and projects for Hass avocado promotion, industry information, consumer information, or related research and to comply with the independent evaluation provisions of the Federal Agricultural Improvement and Reform Act of 1996 [7 U.S.C. 7401 *et seq.*];

(l) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(m) To recommend to the Secretary amendments to this Order;

(n) To invest, pending disbursement under a program, plan, or project, funds collected through assessments authorized under this Act only in:

- (1) Obligations of the United States or any agency of the United States;
- (2) General obligations of any State or any political subdivision of a State;
- (3) Any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) Obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used only for a purpose for which the invested funds may be used;

(o) To borrow funds necessary for the startup expenses of the Order;

(p) To cause the books of the Board to be audited by a qualified independent auditor at the end of each fiscal period and to submit a report of the audit directly to the Secretary;

(q) To give the Secretary the same notice of meetings and teleconferences of the Board and its committees as is given to members in order that the Secretary's representative(s) may attend or participate in the meetings;

(r) To act as intermediary between the Secretary and any producer, first handler, or importer;

(s) To periodically prepare and make public reports of its activities carried out, and at least once each fiscal period, to make public an accounting of funds received and expended; and

(t) To notify Hass avocado producers, first handlers, and importers of all Board meetings through news releases or other means.

§ 1219.39 Board procedure.

(a) At a properly convened meeting of the Board, seven (7) members, including alternates acting in place of members of the Board, shall constitute a quorum: *Provided*, that such alternates shall serve only when the member is absent from a meeting. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In lieu of voting at a properly convened meeting and, when in the opinion of the chairperson of the Board such action is considered necessary, the Board may take action if supported by one vote more than 50 percent of the members by mail, telephone, electronic mail, facsimile, or other means of communication. Such alternative means for the Board taking action may be undertaken for various reasons. These reasons include the need to address matters of an emergency nature when there is not enough time to call an assembled meeting of the Board. All telephone votes shall be confirmed promptly in writing. In that event, all members must be notified and provided an opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Board. All votes shall be recorded in the Board minutes.

(c) All Board members and alternates and the Secretary will be notified at least 10 days in advance of all Board meetings, except the chairperson of the Board can waive the 10-day requirement in matters of an emergency nature.

(d) Each member of the Board will be entitled to one vote on any matter put to the Board, and the motion will carry if supported by one vote more than 50 percent of the total votes represented by the Board members present.

(e) There shall be no voting by proxy.

(f) The chairperson shall be a voting member of the Board.

§ 1219.40 Committee procedure.

(a) The Board may establish committees as deemed necessary to carry out the purposes and objectives of the Order.

(b) The chairperson of the Board shall appoint all committee chairpersons and shall appoint all members of each committee after consultation with the committee chairperson affected. Appointments are subject to approval by the Board and may be changed from time to time as determined by the chairperson of the Board with the concurrence of the Board.

(c) The chairperson of the Board may appoint committee members from among the Board members and alternates and from the industry in general.

(d) The rules and procedures under which committees conduct their activities shall be prescribed in the Board's bylaws.

(e) Committee members and the Secretary will be notified at least 10 days in advance of all committee meetings.

(f) It will be considered a quorum at a committee meeting when at least one more than half of those assigned to the committee are present.

(g) There shall be no voting by proxy on committees.

(h) The chairperson of the Board shall be an ex-officio member of all committees.

§ 1219.41 Compensation and expenses.

(a) The members and alternates of the Board and committee members shall serve without compensation but shall be reimbursed for reasonable out-of-pocket expenses, as approved by the Board, incurred by them in the performance of their duties.

(b) The Board shall have in place sufficient internal controls to prevent reimbursements or expenditures for unreasonable or otherwise controversial travel and meeting expenses.

§ 1219.42 Prohibited activities.

The Board may not engage in and shall prohibit its employees and agents from engaging in:

(a) Any action that would be a conflict of interest. For the purposes of this subpart, Board members and employees thereof must disclose any relationship with any organization or company that has a contract with the Board or operates a State promotion program. No member may vote on any matter in which the member or member's business entity has a financial interest.

(b) Using funds collected under this subpart for the purpose of influencing legislation or governmental action or policy, by local, national, and foreign governments, except to develop and make recommendations to the Secretary as provided for in this subpart.

(c) In a program, plan, or project conducted under this subpart:

(1) Making any reference to private brand names or making false, misleading, disparaging, or unwarranted claims on behalf of Hass avocados or

(2) Making any false, misleading, or disparaging statements with respect to the attributes or use of any agricultural product. This section shall not preclude the Board from offering its programs, plans, and projects for use by commercial parties under such terms and conditions as the Board may prescribe as approved by the Secretary.

(d) For the purposes of this section, a reference to State of origin or country of origin does not constitute a reference to a private brand name with regard to any funds credited to or disbursed by the Board to the Association or to any importer association established in accordance with § 1219.54.

Budgets, Expenses, and Assessments

§ 1219.50 Budgets, programs, plans, and projects.

(a) The Board shall submit to the Secretary, on a fiscal period basis, annual budgets of its anticipated expenses and disbursements of the Board in the administration of this subpart, including the projected costs of Hass avocado promotion, industry information, consumer information, and related research programs, plans, and projects. The first budget shall cover such period as may remain before the beginning of the next fiscal period. If such fiscal period is 90 days or less, the first budget shall cover such period, as well as the next fiscal period. Thereafter, the Board shall submit budgets for each succeeding fiscal period not less than 60 days before the beginning of such fiscal period.

(b) The Board shall receive and evaluate, or on its own initiative

develop programs, plans and projects for Hass avocado promotion, industry information, consumer information as well as related research. The Board shall submit to the Secretary for approval any program, plan, or project authorized in this subpart. Such programs, plans or projects shall provide for:

(1) The establishment, implementation, issuance, effectuation, administration, and evaluation of appropriate programs, plans, or projects for advertising, sales promotion, other promotion, and consumer information with respect to Hass avocados directed toward increasing the general demand for Hass avocados in the United States. Funds shall be available as necessary to carry out this section;

(2) The establishment, implementation, issuance, effectuation, administration, and evaluation of appropriate programs, plans, and projects designed to strengthen the position of the Hass avocado industry in the domestic marketplace; to maintain, develop, and expand markets for Hass avocados in the United States; to lead to the development of new marketing strategies; to advance the image and desirability of, increase the efficiency of, and encourage further development of the Hass avocado industry; and to provide for the disbursement of necessary funds for the purposes described in this section;

(3) The establishment, implementation, issuance, effectuation, administration, and evaluation of programs, plans, and projects for marketing development research; research on the sale, distribution, marketing, use, quality, and nutritional value of Hass avocados; and other research with respect to Hass avocado marketing, promotion, industry information, or consumer information, including the creation of new products thereof. Information acquired from such plans and projects shall be disseminated as appropriate. Funds shall be available as necessary to carry out this section; and

(4) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, and information, and pay for the costs of such contracts or agreements with funds collected pursuant to § 1219.54.

(c) A budget, program, plan, or project for Hass avocados promotion, industry information, consumer information, or related research may not be implemented prior to approval of the budget, program, plan, or project by the Secretary. If the Secretary fails to provide notice to the Board or approval or disapproval of a budget, program, plan, or project within 45 days after

receipt, such budget, program, plan, or project shall be deemed approved by the Secretary and may be implemented by the Board.

(d) The Board, from time to time, may seek advice and consult with experts from the production, import, wholesale, and retail segments of the Hass avocado industry to assist in the development of promotion, industry information, consumer information, and related research programs, plans, and projects. For these purposes, the Board may appoint special committees composed of persons other than Board members. A committee so appointed shall consult directly with the Board.

(e) Programs must be conducted throughout the year to reflect the periods when imported and domestic Hass avocados are in the U.S. marketplace.

(f) The Board shall consult with both the Association and importer associations on programs, plans, and projects for generic promotions.

§ 1219.51 Contracts and agreements.

(a) The Board shall enter into a contract or an agreement with the Association for the implementation of programs, plans, or projects for promotion, industry information, consumer information, or related research with respect to Hass avocados and for the payment of the cost of the contract or agreement with funds received by the Board under this subpart. The Board may disburse such funds as necessary for these purposes after such programs, plans, or projects have been submitted to and approved by the Secretary.

(b) Any contract or agreement entered into shall provide that the contracting or agreeing party shall develop and submit to the Board a program, plan or project, together with a budget that includes the estimated costs to be incurred for the program, plan or project, and such program, plan or project shall become effective on the approval of the Secretary. For such contract or agreement, the contracting or agreeing party shall:

- (1) Keep accurate records of all transactions of the party;
- (2) Account for funds received and expended;
- (3) Make periodic reports to the Board of activities conducted; and
- (4) Make such other reports as the Board or the Secretary shall require.

(c) The Secretary may audit the records of the contracting or agreeing party periodically.

(d) Contractors and subcontractors are subject to the provisions of § 1219.42.

(e) The Board may enter into contracts or agreements for administrative services, including contracts for employment, as may be required to conduct its business. To the extent appropriate to the contract involved, contracts or agreements entered into by the Board under the authority of this section shall conform to the provisions described in paragraph (b) of this section.

§ 1219.52 Control of administrative costs.

(a) As soon as practicable after September 9, 2002, and after consultation with the Secretary and other appropriate persons, the Board shall implement a system of cost controls based on normally accepted business practices to:

(1) Ensure that the costs incurred by the Board in administering this part in any fiscal period shall not exceed 10 percent of the projected level of assessments and other income received by the Board for generic promotion and research programs for that fiscal period; and

(2) Cover the minimum administrative activities and personnel needed to properly administer and enforce this subpart, and conduct, supervise, and evaluate programs, plans, and projects under this subpart.

(b) Reimbursements to the Secretary required under § 1219.53(b) are excluded from the limitation on spending.

(c) To the extent possible, the Board shall use the resources, staffs, and facilities of existing avocado organizations as provided in § 1219.54(a).

§ 1219.53 Budget and expenses.

(a) The Board is authorized to incur such expenses, including provision for a reasonable reserve for operating contingencies, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board, including assessments, contributions from any person not subject to assessments under this subpart, and other funds available to the Board.

(b) The Board shall reimburse the Department:

(1) For expenses not to exceed \$25,000 incurred by the Secretary in connection with any referendum conducted under the Act;

(2) For administrative costs incurred by the Secretary for supervisory work of up to two employee years annually after

the Order or amendment to the Order has been issued and made effective; and

(3) For costs incurred by the Secretary in implementation of the Order, for enforcement of the Act and the order, for subsequent referenda conducted under the Act, and in defending the Board in litigation arising out of action taken by the Board or otherwise in defense of the Order.

(c) The Board shall establish and maintain the minimum level of annual administrative expenses necessary to efficiently and effectively carry out the programs authorized by the Act. The Board shall include its annual administrative expenses as a separate item in its annual report. The Board shall adhere to its fiduciary responsibilities and ensure that all monies are spent in accordance with the Act and the Order.

(d) With the approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays and are limited to the first period of operation of the Board.

(e) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects. The contributions shall be free from any encumbrance by the donor, and the Board shall retain complete control of their use.

§ 1219.54 Assessments.

(a) Except as provided in § 1219.55, the initial rate of assessment shall be 2.5 cents per pound on fresh Hass avocados produced and handled in the United States and on fresh Hass avocados imported into the United States. An equivalent rate shall be assessed on processed and frozen Hass avocados on which an assessment has not been paid. Such equivalent rate will be assessed on processed or frozen Hass avocados upon the recommendation of the Board with the approval of the Secretary. The rate of assessment may be increased or decreased as recommended by the Board and approved by the Secretary. Such an increase or decrease may occur not more than once annually. Any change in the assessment rate shall be announced by the Board at least 30 days prior to going into effect and shall not be subject to a vote in a referendum. The maximum assessment rate authorized is 5 cents per pound. No more than one assessment shall be made on any Hass avocados.

(b) *Domestic assessments.* The collection of assessments on domestic Hass avocados will be the responsibility of the first handler.

(1) In the case of a producer acting as the producer's own first handler, the producer will be required to collect and remit the assessments due to the Board.

(2) Each first handler shall collect from the producer and pay to the Board an assessment of 2.5 cents per pound in accordance with this subpart.

Assessments shall be remitted by each first handler to the Board or its agent within 30 days after the end of the month in which the sale or non-sale transfer subject to assessment under this subpart took place.

(3) The first handler shall maintain a separate record of the domestic Hass avocados of each producer whose domestic Hass avocados are handled, including the domestic Hass avocados owned by the handler and domestic Hass avocados that are exported.

(4) Assessment of other types of fresh avocados may be added at the recommendation of the Board with the approval of the Secretary.

(c) *Import assessments.* Each importer of fresh Hass avocados shall pay an assessment to the Board through Customs on fresh Hass avocados imported for marketing in the United States.

(1) The assessment rate for imported fresh Hass avocados shall be the same or equivalent to the rate for fresh Hass avocados produced and handled in the United States.

(2) The import assessment shall be uniformly applied to imported fresh Hass avocados that are identified by the number 0804.40.00.10 in the Harmonized Tariff Schedule of the United States or any other numbers to identify fresh Hass avocados.

Assessments on other types of imported fresh avocados or on processed Hass avocados, such as prepared, preserved, or frozen Hass avocados or Hass avocado paste, puree, and oil will be added at the recommendation of the Board with the approval of the Secretary.

(3) The assessments due on imported Hass avocados shall be paid when they are released from custody by Customs and introduced into the stream of commerce in the United States.

(d) All assessment payments and reports will be submitted to the Board's office. All final payments for a crop year are to be received no later than November 30 of that year, unless the Board determines that assessments due from the first handler shall be paid to the Board at a different time and manner, with approval of the Secretary.

(e) A late payment charge prescribed by the Secretary shall be imposed on any first handler who fails to remit to the Board the total amount for which any such handler is liable on or before the due date. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the handler is liable. The rate of interest shall be prescribed by the Secretary. The timeliness of a payment to the Board shall be based on the date the payment is actually received by the Board.

(f) Regulations issued by the Secretary may provide for different first handler payment schedules of assessments on domestic Hass avocados, so as to recognize differences in marketing or purchasing practices and procedures.

(g) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(h) The Board may authorize other organizations to collect assessments on its behalf with approval of the Secretary.

(i) The collection of assessments shall commence on or after a date established by the Secretary and shall continue until terminated by the Secretary. If the Board is not constituted on the date the first assessments are to be remitted, the Secretary shall have the authority to receive assessments on behalf of the Board and may hold such assessments in an interest-bearing account until the Board is constituted and the funds are transferred to the Board.

(j) To facilitate the payment of assessments under this section, the Board shall publish lists of first handlers required to remit assessments under this subpart and exempt handlers.

(k) The Association shall receive an amount of assessment funds equal to 85 percent of the assessments paid on Hass avocados produced in such State. Such funds shall be remitted to such State organization no later than 30 days after such funds are received by the Board. In addition, such funds and any proceeds from the investment of such funds shall be used by the Association to finance promotion, research, consumer information, and industry information programs, plans, and projects in the United States. However, no such funds shall be used for any administrative expenses incurred by the Association.

(l) An association of Hass avocado importers established pursuant to § 1219.58 shall receive an amount of assessment funds equal to 85 percent of the assessments paid on Hass avocados imported by its members. Such funds shall be remitted to such importer association no later than 30 days after such funds are received by the Board. In

addition, such funds and any proceeds from the investment of such funds shall be used by the importer association to finance promotion, research, consumer information, and industry information programs, plans, and projects in the United States. However, no such funds shall be used for any administrative expenses incurred by the importer association.

(m) In general, assessment funds received by the Board shall be used:

(1) For payment of costs incurred in implementing and administering this subpart;

(2) To provide for a reasonable reserve to be maintained from assessments to be available for contingencies; and

(3) To cover the administrative costs incurred by the Secretary in implementing and administering this Act, as set forth in § 1219.53(b).

(n) The Board may establish an operating monetary reserve which may carry over to subsequent fiscal periods: *Provided that*, the funds in the reserve do not exceed one fiscal period's budget. Subject to approval by the Secretary, reserve funds may be used to defray any expenses authorized under this part.

§ 1219.55 Exemption from assessment.

(a) Any sale of Hass avocados for export from the United States is exempt from assessment.

(b) The Board may require persons receiving an exemption from assessments to provide to the Board reports on the disposition of exempt Hass avocados.

§ 1219.56 Adjustment of accounts.

Whenever the Board or the Secretary determines through an audit of a person's reports, records, books, or accounts or by some other means that additional money is due to the Board, the person shall be notified of the amount due. The person shall then remit any amount due the Board by the next date for remitting assessments. Overpayments shall be credited to the account of the person remitting the overpayment and shall be applied against any amounts due in succeeding months unless the person requests a refund of the overpayment.

§ 1219.57 Patents, copyrights, trademarks, publications, and product formulations.

(a) Any patents, copyrights, trademarks, inventions, information, publications, and product formulations developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents,

royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, information, publications, or product formulations, inure to the benefit of the Board; shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board; and may be licensed subject to approval of the Secretary. Section 1219.72 describes the procedures for termination.

(b) Should patents, copyrights, trademarks, inventions, publications, or product formulations be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, trademarks, inventions, publications, or product formulations shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, trademark, invention, publication, or product formulation in a manner consistent with paragraph (a) of this section.

§ 1219.58 Importer associations.

(a) An association of avocado importers is eligible to receive assessment funds and any proceeds from the investment of such funds only if such importer association is:

(1) Established pursuant to State law that requires detailed State regulation comparable to that applicable to the State organization of domestic avocado producers, as determined by the Secretary; or

(2) Certified by the Secretary as meeting the requirements applicable to the Board as to its operations and obligations, including budgets, programs, plans, projects, audits, conflicts of interest, and reimbursements for administrative costs incurred by the Secretary.

(b) An importer association may represent any importers of Hass avocados including importers of Hass avocados from a particular foreign country. An importer association may be composed of importers as well as representatives of foreign avocado exporting industries. An importer association should establish its own bylaws and may use existing organizations for the establishment of the association and coordination of the association's promotion and research efforts.

(c) For the purposes of the Order, the information required for certification of the importer associations by the

Secretary may include, but is not limited to, the following:

(1) Evidence of incorporation under any state law with all appropriate legal requirements;

(2) Evidence that the association is composed of importers that are located in any state and subject to assessments under the Order, no matter where the association has been incorporated or in which state the importers reside;

(3) Certification of the association's ability and willingness to further the aims and objectives of the Order;

(4) Evidence of stability and permanency; and

(5) A description of the functions of the association.

Books, Records, and Reports

§ 1219.60 Reports.

(a) Each first handler of domestic Hass avocados, producer, and importer subject to this subpart shall report to the administrative staff of the Board, at such times and in such manner as the Board may prescribe, such information as may be necessary for the Board to perform its duties.

(b) First handler reports shall include, but shall not be limited to, the following:

(1) Number of pounds of domestic Hass avocados received during the reporting period;

(2) Number of pounds on which assessments were collected;

(3) Assessments collected during the reporting period;

(4) Name and address of person(s) from whom the first handler collected the assessments on each pound handled;

(5) Date collection was made on each pound handled;

(6) Record of assessments paid, including a statement from the handler that assessments have been paid on all domestic Hass avocados handled during the reporting period; and

(7) Number of pounds exported.

(c) Each importer subject to this subpart may be required to report the following:

(1) Number of pounds of Hass avocados imported during the reporting period;

(2) Number of pounds on which an assessment was paid;

(3) Name and address of the importer;

(4) Date collection was made on each pound imported and to whom payment was made; and

(5) Record of each importation of Hass avocados during such period, giving quantity, variety, date, and port of entry.

§ 1219.61 Books and records.

Each producer, first handler, and importer subject to this subpart shall

maintain and make available for inspection by the employees and agents of the Board and the Secretary, such books and records as are necessary to carry out the provisions of this subpart, and the regulations issued thereunder, including such records as are necessary to verify any reports required. Books and records shall be retained for at least two years beyond the fiscal period of their applicability.

§ 1219.62 Books and records of the Board.

(a) The Board shall maintain such books and records as the Secretary may require. Such books and records shall be made available upon request by the Secretary for inspection and audit.

(b) The Board shall prepare and submit to the Secretary, from time to time, such reports as the Secretary may require.

(c) The Board shall account for the receipt and disbursement of all the funds entrusted to the Board.

(d) The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal period. A report of each audit shall be submitted to the Secretary.

§ 1219.63 Confidential treatment.

(a) All information obtained from the books, records, or reports under the Act, this subpart, and the regulations issued thereunder shall be kept confidential and shall not be disclosed to the public by any person, including all current and former officers, employees, staff and agents of the Department, the Board, and contracting and subcontracting agencies or agreeing parties having access to such information. Only those persons having a specific need for such information to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed, and then only in a judicial proceeding or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this subpart shall be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected from such reports, if such statements do not identify the information furnished by any person; or

(2) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement

of the particular provisions of this subpart violated by such person.

(b) Any disclosure of any confidential information by any employee or agent of the Board shall be considered willful misconduct.

(c) No information on how a person voted in a referendum conducted under the Act shall be made public.

§ 1219.64 List of importers.

The administrative staff of the Board shall periodically review the list of importers of Hass avocados to determine whether persons on the list are subject to this subpart.

§ 1219.65 List of producers.

The administrative staff of the Board shall periodically review the list of producers of Hass avocados to determine whether the persons on the list are subject to this subpart. On the request of the Secretary or the Board, the Association shall provide to the Secretary or the administrative staff of the Board the list of producers of Hass avocados.

Miscellaneous

§ 1219.70 Right of the Secretary.

All fiscal matters, programs, plans, and projects, contracts, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1219.71 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof if the Secretary finds that the part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this part or subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Order or the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of the producers and importers voting who, during a representative period determined by the Secretary, have been engaged in the production or importation of Hass avocados.

(c) If, as a result of a referendum, the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Suspend or terminate, as appropriate, the collection of assessments not later than 180 days after making such determination; and

(2) Suspend or terminate, as appropriate, all activities under this

subpart in an orderly manner as soon as practicable.

§ 1219.72 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property owned, in possession of or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person or persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or, if not practicable, shall be turned over to the Secretary to be distributed to authorized Hass avocado producer and importer organizations in the interest of continuing Hass avocado promotion, research, and information programs.

§ 1219.73 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any such rule or regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or of any rule or regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any person, with respect to any such violation.

§ 1219.74 Personal liability.

No member, alternate member, employee, or agent of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of Association or omission, as such member, alternate, employee, or agent, except for acts of dishonesty or willful misconduct.

§ 1219.75 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1219.76 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by any interested persons affected by the provisions of the Act, including the Secretary. Except for changes in the assessment rate, the provisions of the Act applicable to the Order are applicable to any amendment of the Order.

§ 1219.77 OMB control numbers.

The control numbers assigned to the information collection requirements in this part by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, are OMB control numbers 0581-0197 and 0505-0001.

Dated: August 30, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02-22671 Filed 9-5-02; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245-AF00

Small Business Size Standards; Adoption of Size Standards by 2002 North American Industry Classification System for Size Standards

AGENCY: Small Business Administration (SBA).

ACTION: Direct final rule; correction.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting the direct final rule it published in the **Federal Register** on August 13, 2002, that would amend its Small Business Size Regulations by incorporating the Office of Management and Budget's (OMB) 2002 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards. The direct final rule published on August 13, 2002, contained a number of formatting errors that could make it difficult for some readers to distinguish between size standards defined in millions of dollars and those defined in number of employees. This correction contains a new table of size standards to clearly identify size standards by millions of dollars and by number of employees.

DATES: The direct final rule is effective October 1, 2002, without further action,

unless adverse comment is received by September 12, 2002. If adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Address all comments concerning the direct final rule to Gary M. Jackson, Assistant Administrator for Size Standards, Office of Size Standards, 409 Third Street, SW., Washington, DC 20416; via email to sizestandards@sba.gov; or via facsimile, (202) 205-6390. SBA will make all public comments available to any person or concern upon request.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, at (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: SBA published a direct final rule in the **Federal Register** on August 13, 2002, (67 FR 52597) to amend its Small Business Size Regulations by incorporating the Office of Management

and Budget's (OMB) 2002 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards. The direct final rule published in the **Federal Register** on August 13, 2002, did not include dollar signs for many of the monetary-based size standards. This correction revises the size standards table by listing size standards by millions of dollars and number of employees in separate columns.

In rule FR Doc. 02-20357 published on August 13, 2002 (67 FR 52597) make the following correction.

On page 52602, in the third column, correct amendatory instruction number 3 as follows:

§ 121.201 [Amended]

3. Amend § 121.201 by revising the table of size standards to read as follows:

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Sector 11—Agriculture, Forestry, Fishing and Hunting			
Subsector 111—Crop Production			
111110	Soybean Farming	\$0.75	.....
111120	Oilseed (except Soybean) Farming	\$0.75	.....
111130	Dry Pea and Bean Farming	\$0.75	.....
111140	Wheat Farming	\$0.75	.....
111150	Corn Farming	\$0.75	.....
111160	Rice Farming	\$0.75	.....
111191	Oilseed and Grain Combination Farming	\$0.75	.....
111199	All Other Grain Farming	\$0.75	.....
111211	Potato Farming	\$0.75	.....
111219	Other Vegetable (except Potato) and Melon Farming	\$0.75	.....
111310	Orange Groves	\$0.75	.....
111320	Citrus (except Orange) Groves	\$0.75	.....
111331	Apple Orchards	\$0.75	.....
111332	Grape Vineyards	\$0.75	.....
111333	Strawberry Farming	\$0.75	.....
111334	Berry (except Strawberry) Farming	\$0.75	.....
111335	Tree Nut Farming	\$0.75	.....
111336	Fruit and Tree Nut Combination Farming	\$0.75	.....
111339	Other Noncitrus Fruit Farming	\$0.75	.....
111411	Mushroom Production	\$0.75	.....
111419	Other Food Crops Grown Under Cover	\$0.75	.....
111421	Nursery and Tree Production	\$0.75	.....
111422	Floriculture Production	\$0.75	.....
111910	Tobacco Farming	\$0.75	.....
111920	Cotton Farming	\$0.75	.....
111930	Sugarcane Farming	\$0.75	.....
111940	Hay Farming	\$0.75	.....
111991	Sugar Beet Farming	\$0.75	.....
111992	Peanut Farming	\$0.75	.....
111998	All Other Miscellaneous Crop Farming	\$0.75	.....
Subsector 112—Animal Production			
112111	Beef Cattle Ranching and Farming	\$0.75	.....
112112	Cattle Feedlots	\$1.50	.....
112120	Dairy Cattle and Milk Production	\$0.75	.....
112210	Hog and Pig Farming	\$0.75	.....
112310	Chicken Egg Production	\$10.50	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
112320	Broilers and Other Meat Type Chicken Production	\$0.75	.....
112330	Turkey Production	\$0.75	.....
112340	Poultry Hatcheries	\$0.75	.....
112390	Other Poultry Production	\$0.75	.....
112410	Sheep Farming	\$0.75	.....
112420	Goat Farming	\$0.75	.....
112511	Finfish Farming and Fish Hatcheries	\$0.75	.....
112512	Shellfish Farming	\$0.75	.....
112519	Other Animal Aquaculture	\$0.75	.....
112910	Apiculture	\$0.75	.....
112920	Horse and Other Equine Production	\$0.75	.....
112930	Fur-Bearing Animal and Rabbit Production	\$0.75	.....
112990	All Other Animal Production	\$0.75	.....
Subsector 113—Forestry and Logging			
113110	Timber Tract Operations	\$6.0	.....
113210	Forest Nurseries and Gathering of Forest Products	\$6.0	.....
113310	Logging .....	.....	500
Subsector 114—Fishing, Hunting and Trapping			
114111	Finfish Fishing	\$3.5	.....
114112	Shellfish Fishing	\$3.5	.....
114119	Other Marine Fishing	\$3.5	.....
114210	Hunting and Trapping	\$3.5	.....
Subsector 115—Support Activities for Agriculture and Forestry			
115111	Cotton Ginning	\$6.0	.....
115112	Soil Preparation, Planting, and Cultivating	\$6.0	.....
115113	Crop Harvesting, Primarily by Machine	\$6.0	.....
115114	Postharvest Crop Activities (except Cotton Ginning)	\$6.0	.....
115115	Farm Labor Contractors and Crew Leaders	\$6.0	.....
115116	Farm Management Services	\$6.0	.....
115210	Support Activities for Animal Production	\$6.0	.....
115310	Support Activities for Forestry	\$6.0	.....
Sector 21—Mining			
Subsector 211—Oil and Gas Extraction			
211111	Crude Petroleum and Natural Gas Extraction .....	.....	500
211112	Natural Gas Liquid Extraction .....	.....	500
Subsector 212—Mining (except Oil and Gas)			
212111	Bituminous Coal and Lignite Surface Mining .....	.....	500
212112	Bituminous Coal Underground Mining .....	.....	500
212113	Anthracite Mining .....	.....	500
212210	Iron Ore Mining .....	.....	500
212221	Gold Ore Mining .....	.....	500
212222	Silver Ore Mining .....	.....	500
212231	Lead Ore and Zinc Ore Mining .....	.....	500
212234	Copper Ore and Nickel Ore Mining .....	.....	500
212291	Uranium-Radium-Vanadium Ore Mining .....	.....	500
212299	All Other Metal Ore Mining .....	.....	500
212311	Dimension Stone Mining and Quarrying .....	.....	500
212312	Crushed and Broken Limestone Mining and Quarrying .....	.....	500
212313	Crushed and Broken Granite Mining and Quarrying .....	.....	500
212319	Other Crushed and Broken Stone Mining and Quarrying .....	.....	500
212321	Construction Sand and Gravel Mining .....	.....	500
212322	Industrial Sand Mining .....	.....	500
212324	Kaolin and Ball Clay Mining .....	.....	500
212325	Clay and Ceramic and Refractory Minerals Mining .....	.....	500
212391	Potash, Soda, and Borate Mineral Mining .....	.....	500
212392	Phosphate Rock Mining .....	.....	500
212393	Other Chemical and Fertilizer Mineral Mining .....	.....	500
212399	All Other Nonmetallic Mineral Mining .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 213—Support Activities for Mining			
213111	Drilling Oil and Gas Wells .....	.....	500
213112	Support Activities for Oil and Gas Operations	\$6.0	.....
213113	Support Activities for Coal Mining	\$6.0	.....
213114	Support Activities for Metal Mining	\$6.0	.....
213115	Support Activities for Nonmetallic Minerals (except Fuels)	\$6.0	.....
Sector 22—Utilities			
Subsector 221—Utilities			
221111	Hydroelectric Power Generation	See footnote 1	.....
221112	Fossil Fuel Electric Power Generation	See footnote 1	.....
221113	Nuclear Electric Power Generation	See footnote 1	.....
221119	Other Electric Power Generation	See footnote 1	.....
221121	Electric Bulk Power Transmission See and Control footnote 1 .....	.....	.....
221122	Electric Power Distribution	See footnote 1	.....
221210	Natural Gas Distribution .....	.....	500
221310	Water Supply and Irrigation Systems	\$6.0	.....
221320	Sewage Treatment Facilities	\$6.0	.....
221330	Steam and Air-Conditioning Supply	\$10.5	.....
Sector 23—Construction			
Subsector 236—Construction of Buildings			
236115	New Single-Family Housing Construction (except Operative Builders)	\$28.5	.....
236116	New Multifamily Housing Construction (except Operative Builders)	\$28.5	.....
236117	New Housing Operative Builders	\$28.5	.....
236118	Residential Remodelers	\$28.5	.....
236210	Industrial Building Construction	\$28.5	.....
236220	Commercial and Institutional Building Construction	\$28.5	.....
Subsector 237—Heavy and Civil Engineering Construction			
237110	Water and Sewer Line and Related Structures Construction	\$28.5	.....
237120	Oil and Gas Pipeline and Related Structures Construction	\$28.5	.....
237130	Power and Communication Line and Related Structures Construction	\$28.5	.....
237210	Land Subdivision	\$6.0	.....
237310	Highway, Street, and Bridge Construction	\$28.5	.....
237990	Other Heavy and Civil Engineering Construction	\$28.5	.....
EXCEPT, Dredging and Surface Cleanup Activities ²		² \$17.02	.....
Subsector 238—Specialty Trade Contractors			
238110	Poured Concrete Foundation and Structure Contractors	\$12.0	.....
238120	Structural Steel and Precast Concrete Contractors	\$12.0	.....
238130	Framing Contractors	\$12.0	.....
238140	Masonry Contractors	\$12.0	.....
238150	Glass and Glazing Contractors	\$12.0	.....
238160	Roofing Contractors	\$12.0	.....
238170	Siding Contractors	\$12.0	.....
238190	Other Foundation, Structure, and Building Exterior Contractors	\$12.0	.....
238210	Electrical Contractors	\$12.0	.....
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$12.0	.....
238290	Other Building Equipment Contractors	\$12.0	.....
238310	Drywall and Insulation Contractors	\$12.0	.....
238320	Painting and Wall Covering Contractors	\$12.0	.....
238330	Flooring Contractors	\$12.0	.....
238340	Tile and Terrazzo Contractors	\$12.0	.....
238350	Finish Carpentry Contractors	\$12.0	.....
238390	Other Building Finishing Contractors	\$12.0	.....
238910	Site Preparation Contractors	\$12.0	.....
238990	All Other Specialty Trade Contractors	\$12.0	.....
EXCEPT, Base Housing Maintenance ¹³		¹³ \$12.0	.....
Sectors 31–33—Manufacturing			
Subsector 311—Food Manufacturing			
311111	Dog and Cat Food Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
311119	Other Animal Food Manufacturing .....	.....	500
311211	Flour Milling .....	.....	500
311212	Rice Milling .....	.....	500
311213	Malt Manufacturing .....	.....	500
311221	Wet Corn Milling .....	.....	750
311222	Soybean Processing .....	.....	500
311223	Other Oilseed Processing .....	.....	1,000
311225	Fats and Oils Refining and Blending .....	.....	1,000
311230	Breakfast Cereal Manufacturing .....	.....	1,000
311311	Sugarcane Mills .....	.....	500
311312	Cane Sugar Refining .....	.....	750
311313	Beet Sugar Manufacturing .....	.....	750
311320	Chocolate and Confectionery Manufacturing from Cacao Beans .....	.....	500
311330	Confectionery Manufacturing from Purchased Chocolate .....	.....	500
311340	Non-Chocolate Confectionery Manufacturing .....	.....	500
311411	Frozen Fruit, Juice and Vegetable Manufacturing .....	.....	500
311412	Frozen Specialty Food Manufacturing .....	.....	500
311421	Fruit and Vegetable Canning ³ .....	.....	³ 500
311422	Specialty Canning .....	.....	1,000
311423	Dried and Dehydrated Food Manufacturing .....	.....	500
311511	Fluid Milk Manufacturing .....	.....	500
311512	Creamery Butter Manufacturing .....	.....	500
311513	Cheese Manufacturing .....	.....	500
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing .....	.....	500
311520	Ice Cream and Frozen Dessert Manufacturing .....	.....	500
311611	Animal (except Poultry) Slaughtering .....	.....	500
311612	Meat Processed from Carcasses .....	.....	500
311613	Rendering and Meat By-product Processing .....	.....	500
311615	Poultry Processing .....	.....	500
311711	Seafood Canning .....	.....	500
311712	Fresh and Frozen Seafood Processing .....	.....	500
311811	Retail Bakeries .....	.....	500
311812	Commercial Bakeries .....	.....	500
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing .....	.....	500
311821	Cookie and Cracker Manufacturing .....	.....	750
311822	Flour Mixes and Dough Manufacturing from Purchased Flour .....	.....	500
311823	Dry Pasta Manufacturing .....	.....	500
311830	Tortilla Manufacturing .....	.....	500
311911	Roasted Nuts and Peanut Butter Manufacturing .....	.....	500
311919	Other Snack Food Manufacturing .....	.....	500
311920	Coffee and Tea Manufacturing .....	.....	500
311930	Flavoring Syrup and Concentrate Manufacturing .....	.....	500
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing .....	.....	500
311942	Spice and Extract Manufacturing .....	.....	500
311991	Perishable Prepared Food Manufacturing .....	.....	500
311999	All Other Miscellaneous Food Manufacturing .....	.....	500

Subsector 312—Beverage and Tobacco Product Manufacturing

312111	Soft Drink Manufacturing .....	.....	500
312112	Bottled Water Manufacturing .....	.....	500
312113	Ice Manufacturing .....	.....	500
312120	Breweries .....	.....	500
312130	Wineries .....	.....	500
312140	Distilleries .....	.....	750
312210	Tobacco Stemming and Redrying .....	.....	500
312221	Cigarette Manufacturing .....	.....	1,000
312229	Other Tobacco Product Manufacturing .....	.....	500

Subsector 313—Textile Mills

313111	Yarn Spinning Mills .....	.....	500
313112	Yarn Texturizing, Throwing and Twisting Mills .....	.....	500
313113	Thread Mills .....	.....	500
313210	Broadwoven Fabric Mills .....	.....	1,000
313221	Narrow Fabric Mills .....	.....	500
313222	Schiffli Machine Embroidery .....	.....	500
313230	Nonwoven Fabric Mills .....	.....	500
313241	Weft Knit Fabric Mills .....	.....	500
313249	Other Knit Fabric and Lace Mills .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
313311	Broadwoven Fabric Finishing Mills .....	.....	1,000
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills .....	.....	500
313320	Fabric Coating Mills .....	.....	1,000
Subsector 314—Textile Product Mills			
314110	Carpet and Rug Mills .....	.....	500
314121	Curtain and Drapery Mills .....	.....	500
314129	Other Household Textile Product Mills .....	.....	500
314911	Textile Bag Mills .....	.....	500
314912	Canvas and Related Product Mills .....	.....	500
314991	Rope, Cordage and Twine Mills .....	.....	500
314992	Tire Cord and Tire Fabric Mills .....	.....	1,000
314999	All Other Miscellaneous Textile Product Mills .....	.....	500
Subsector 315—Apparel Manufacturing			
315111	Sheer Hosiery Mills .....	.....	500
315119	Other Hosiery and Sock Mills .....	.....	500
315191	Outerwear Knitting Mills .....	.....	500
315192	Underwear and Nightwear Knitting Mills .....	.....	500
315211	Men's and Boys' Cut and Sew Apparel Contractors .....	.....	500
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors .....	.....	500
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing .....	.....	500
315222	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing .....	.....	500
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing .....	.....	500
315224	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing .....	.....	500
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing .....	.....	500
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing .....	.....	500
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing .....	.....	500
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing .....	.....	500
315233	Women's and Girls' Cut and Sew Dress Manufacturing .....	.....	500
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing .....	.....	500
315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing .....	.....	500
315291	Infants' Cut and Sew Apparel Manufacturing .....	.....	500
315292	Fur and Leather Apparel Manufacturing .....	.....	500
315299	All Other Cut and Sew Apparel Manufacturing .....	.....	500
315991	Hat, Cap and Millinery Manufacturing .....	.....	500
315992	Glove and Mitten Manufacturing .....	.....	500
315993	Men's and Boys' Neckwear Manufacturing .....	.....	500
315999	Other Apparel Accessories and Other Apparel Manufacturing .....	.....	500
Subsector 316—Leather and Allied Product Manufacturing			
316110	Leather and Hide Tanning and Finishing .....	.....	500
316211	Rubber and Plastics Footwear Manufacturing .....	.....	1,000
316212	House Slipper Manufacturing .....	.....	500
316213	Men's Footwear (except Athletic) Manufacturing .....	.....	500
316214	Women's Footwear (except Athletic) Manufacturing .....	.....	500
316219	Other Footwear Manufacturing .....	.....	500
316991	Luggage Manufacturing .....	.....	500
316992	Women's Handbag and Purse Manufacturing .....	.....	500
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing .....	.....	500
316999	All Other Leather Good Manufacturing .....	.....	500
Subsector 321—Wood Product Manufacturing			
321113	Sawmills .....	.....	500
321114	Wood Preservation .....	.....	500
321211	Hardwood Veneer and Plywood Manufacturing .....	.....	500
321212	Softwood Veneer and Plywood Manufacturing .....	.....	500
321213	Engineered Wood Member (except Truss) Manufacturing .....	.....	500
321214	Truss Manufacturing .....	.....	500
321219	Reconstituted Wood Product Manufacturing .....	.....	500
321911	Wood Window and Door Manufacturing .....	.....	500
321912	Cut Stock, Resawing Lumber, and Planing .....	.....	500
321918	Other Millwork (including Flooring) .....	.....	500
321920	Wood Container and Pallet Manufacturing .....	.....	500
321991	Manufactured Home (Mobile Home) Manufacturing .....	.....	500
321992	Prefabricated Wood Building Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
321999	All Other Miscellaneous Wood Product Manufacturing .....	.....	500
Subsector 322—Paper Manufacturing			
322110	Pulp Mills .....	.....	750
322121	Paper (except Newsprint) Mills .....	.....	750
322122	Newsprint Mills .....	.....	750
322130	Paperboard Mills .....	.....	750
322211	Corrugated and Solid Fiber Box Manufacturing .....	.....	500
322212	Folding Paperboard Box Manufacturing .....	.....	750
322213	Setup Paperboard Box Manufacturing .....	.....	500
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing .....	.....	500
322215	Non-Folding Sanitary Food Container Manufacturing .....	.....	750
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing .....	.....	500
322222	Coated and Laminated Paper Manufacturing .....	.....	500
322223	Plastics, Foil, and Coated Paper Bag Manufacturing .....	.....	500
322224	Uncoated Paper and Multiwall Bag Manufacturing .....	.....	500
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses .....	.....	500
322226	Surface-Coated Paperboard Manufacturing .....	.....	500
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing .....	.....	500
322232	Envelope Manufacturing .....	.....	500
322233	Stationery, Tablet, and Related Product Manufacturing .....	.....	500
322291	Sanitary Paper Product Manufacturing .....	.....	500
322299	All Other Converted Paper Product Manufacturing .....	.....	500
Subsector 323—Printing and Related Support Activities			
323110	Commercial Lithographic Printing .....	.....	500
323111	Commercial Gravure Printing .....	.....	500
323112	Commercial Flexographic Printing .....	.....	500
323113	Commercial Screen Printing .....	.....	500
323114	Quick Printing .....	.....	500
323115	Digital Printing .....	.....	500
323116	Manifold Business Forms Printing .....	.....	500
323117	Books Printing .....	.....	500
323118	Blankbook, Loose-leaf Binder and Device Manufacturing .....	.....	500
323119	Other Commercial Printing .....	.....	500
323121	Tradebinding and Related Work .....	.....	500
323122	Prepress Services .....	.....	500
Subsector 324—Petroleum and Coal Products Manufacturing			
324110	Petroleum Refineries ⁴ .....	.....	4 1,500
324121	Asphalt Paving Mixture and Block Manufacturing .....	.....	500
324122	Asphalt Shingle and Coating Materials Manufacturing .....	.....	750
324191	Petroleum Lubricating Oil and Grease Manufacturing .....	.....	500
324199	All Other Petroleum and Coal Products Manufacturing .....	.....	500
Subsector 325—Chemical Manufacturing			
325110	Petrochemical Manufacturing .....	.....	1,000
325120	Industrial Gas Manufacturing .....	.....	1,000
325131	Inorganic Dye and Pigment Manufacturing .....	.....	1,000
325132	Synthetic Organic Dye and Pigment Manufacturing .....	.....	750
325181	Alkalies and Chlorine Manufacturing .....	.....	1,000
325182	Carbon Black Manufacturing .....	.....	500
325188	All Other Basic Inorganic Chemical Manufacturing .....	.....	1,000
325191	Gum and Wood Chemical Manufacturing .....	.....	500
325192	Cyclic Crude and Intermediate Manufacturing .....	.....	750
325193	Ethyl Alcohol Manufacturing .....	.....	1,000
325199	All Other Basic Organic Chemical Manufacturing .....	.....	1,000
325211	Plastics Material and Resin Manufacturing .....	.....	750
325212	Synthetic Rubber Manufacturing .....	.....	1,000
325221	Cellulosic Organic Fiber Manufacturing .....	.....	1,000
325222	Noncellulosic Organic Fiber Manufacturing .....	.....	1,000
325311	Nitrogenous Fertilizer Manufacturing .....	.....	1,000
325312	Phosphatic Fertilizer Manufacturing .....	.....	500
325314	Fertilizer (Mixing Only) Manufacturing .....	.....	500
325320	Pesticide and Other Agricultural Chemical Manufacturing .....	.....	500
325411	Medicinal and Botanical Manufacturing .....	.....	750
325412	Pharmaceutical Preparation Manufacturing .....	.....	750

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
325413	In-Vitro Diagnostic Substance Manufacturing .....	.....	500
325414	Biological Product (except Diagnostic) Manufacturing .....	.....	500
325510	Paint and Coating Manufacturing .....	.....	500
325520	Adhesive Manufacturing .....	.....	500
325611	Soap and Other Detergent Manufacturing .....	.....	750
325612	Polish and Other Sanitation Good Manufacturing .....	.....	500
325613	Surface Active Agent Manufacturing .....	.....	500
325620	Toilet Preparation Manufacturing .....	.....	500
325910	Printing Ink Manufacturing .....	.....	500
325920	Explosives Manufacturing .....	.....	750
325991	Custom Compounding of Purchased Resins .....	.....	500
325992	Photographic Film, Paper, Plate and Chemical Manufacturing .....	.....	500
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing .....	.....	500
Subsector 326—Plastics and Rubber Products Manufacturing			
326111	Unsupported Plastics Bag Manufacturing .....	.....	500
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing .....	.....	500
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing .....	.....	500
326121	Unsupported Plastics Profile Shapes Manufacturing .....	.....	500
326122	Plastics Pipe and Pipe Fitting Manufacturing .....	.....	500
326130	Laminated Plastics Plate, Sheet and Shape Manufacturing .....	.....	500
326140	Polystyrene Foam Product Manufacturing .....	.....	500
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing .....	.....	500
326160	Plastics Bottle Manufacturing .....	.....	500
326191	Plastics Plumbing Fixture Manufacturing .....	.....	500
326192	Resilient Floor Covering Manufacturing .....	.....	750
326199	All Other Plastics Product Manufacturing .....	.....	500
326211	Tire Manufacturing (except Retreading) ⁵ .....	.....	5 1,000
326212	Tire Retreading .....	.....	500
326220	Rubber and Plastics Hoses and Belting Manufacturing .....	.....	500
326291	Rubber Product Manufacturing for Mechanical Use .....	.....	500
326299	All Other Rubber Product Manufacturing .....	.....	500
Subsector 327—Nonmetallic Mineral Product Manufacturing			
327111	Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing .....	.....	750
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing .....	.....	500
327113	Porcelain Electrical Supply Manufacturing .....	.....	500
327121	Brick and Structural Clay Tile Manufacturing .....	.....	500
327122	Ceramic Wall and Floor Tile Manufacturing .....	.....	500
327123	Other Structural Clay Product Manufacturing .....	.....	500
327124	Clay Refractory Manufacturing .....	.....	500
327125	Nonclay Refractory Manufacturing .....	.....	750
327211	Flat Glass Manufacturing .....	.....	1,000
327212	Other Pressed and Blown Glass and Glassware Manufacturing .....	.....	750
327213	Glass Container Manufacturing .....	.....	750
327215	Glass Product Manufacturing Made of Purchased Glass .....	.....	500
327310	Cement Manufacturing .....	.....	750
327320	Ready-Mix Concrete Manufacturing .....	.....	500
327331	Concrete Block and Brick Manufacturing .....	.....	500
327332	Concrete Pipe Manufacturing .....	.....	500
327390	Other Concrete Product Manufacturing .....	.....	500
327410	Lime Manufacturing .....	.....	500
327420	Gypsum Product Manufacturing .....	.....	1,000
327910	Abrasive Product Manufacturing .....	.....	500
327991	Cut Stone and Stone Product Manufacturing .....	.....	500
327992	Ground or Treated Mineral and Earth Manufacturing .....	.....	500
327993	Mineral Wool Manufacturing .....	.....	750
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing .....	.....	500
Subsector 331—Primary Metal Manufacturing			
331111	Iron and Steel Mills .....	.....	1,000
331112	Electrometallurgical Ferroalloy Product Manufacturing .....	.....	750
331210	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel .....	.....	1,000
331221	Cold-Rolled Steel Shape Manufacturing .....	.....	1,000
331222	Steel Wire Drawing .....	.....	1,000
331311	Alumina Refining .....	.....	1,000
331312	Primary Aluminum Production .....	.....	1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
331314	Secondary Smelting and Alloying of Aluminum .....	.....	750
331315	Aluminum Sheet, Plate and Foil Manufacturing .....	.....	750
331316	Aluminum Extruded Product Manufacturing .....	.....	750
331319	Other Aluminum Rolling and Drawing .....	.....	750
331411	Primary Smelting and Refining of Copper .....	.....	1,000
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum) .....	.....	750
331421	Copper Rolling, Drawing and Extruding .....	.....	750
331422	Copper Wire (except Mechanical) Drawing .....	.....	1,000
331423	Secondary Smelting, Refining, and Alloying of Copper .....	.....	750
331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing and Extruding .....	.....	750
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum).	.....	750
331511	Iron Foundries .....	.....	500
331512	Steel Investment Foundries .....	.....	500
331513	Steel Foundries (except Investment) .....	.....	500
331521	Aluminum Die-Casting Foundries .....	.....	500
331522	Nonferrous (except Aluminum) Die-Casting Foundries .....	.....	500
331524	Aluminum Foundries (except Die-Casting) .....	.....	500
331525	Copper Foundries (except Die-Casting) .....	.....	500
331528	Other Nonferrous Foundries (except Die-Casting) .....	.....	500

Subsector 332—Fabricated Metal Product Manufacturing

332111	Iron and Steel Forging .....	.....	500
332112	Nonferrous Forging .....	.....	500
332114	Custom Roll Forming .....	.....	500
332115	Crown and Closure Manufacturing .....	.....	500
332116	Metal Stamping .....	.....	500
332117	Powder Metallurgy Part Manufacturing .....	.....	500
332211	Cutlery and Flatware (except Precious) Manufacturing .....	.....	500
332212	Hand and Edge Tool Manufacturing .....	.....	500
332213	Saw Blade and Handsaw Manufacturing .....	.....	500
332214	Kitchen Utensil, Pot and Pan Manufacturing .....	.....	500
332311	Prefabricated Metal Building and Component Manufacturing .....	.....	500
332312	Fabricated Structural Metal Manufacturing .....	.....	500
332313	Plate Work Manufacturing .....	.....	500
332321	Metal Window and Door Manufacturing .....	.....	500
332322	Sheet Metal Work Manufacturing .....	.....	500
332323	Ornamental and Architectural Metal Work Manufacturing .....	.....	500
332410	Power Boiler and Heat Exchanger Manufacturing .....	.....	500
332420	Metal Tank (Heavy Gauge) Manufacturing .....	.....	500
332431	Metal Can Manufacturing .....	.....	1,000
332439	Other Metal Container Manufacturing .....	.....	500
332510	Hardware Manufacturing .....	.....	500
332611	Spring (Heavy Gauge) Manufacturing .....	.....	500
332612	Spring (Light Gauge) Manufacturing .....	.....	500
332618	Other Fabricated Wire Product Manufacturing .....	.....	500
332710	Machine Shops .....	.....	500
332721	Precision Turned Product Manufacturing .....	.....	500
332722	Bolt, Nut, Screw, Rivet and Washer Manufacturing .....	.....	500
332811	Metal Heat Treating .....	.....	750
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers.	.....	500
332813	Electroplating, Plating, Polishing, Anodizing and Coloring .....	.....	500
332911	Industrial Valve Manufacturing .....	.....	500
332912	Fluid Power Valve and Hose Fitting Manufacturing .....	.....	500
332913	Plumbing Fixture Fitting and Trim Manufacturing .....	.....	500
332919	Other Metal Valve and Pipe Fitting Manufacturing .....	.....	500
332991	Ball and Roller Bearing Manufacturing .....	.....	750
332992	Small Arms Ammunition Manufacturing .....	.....	1,000
332993	Ammunition (except Small Arms) Manufacturing .....	.....	1,500
332994	Small Arms Manufacturing .....	.....	1,000
332995	Other Ordnance and Accessories Manufacturing .....	.....	500
332996	Fabricated Pipe and Pipe Fitting Manufacturing .....	.....	500
332997	Industrial Pattern Manufacturing .....	.....	500
332998	Enameled Iron and Metal Sanitary Ware Manufacturing .....	.....	750
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing .....	.....	500

Subsector 333—Machinery Manufacturing⁶

333111	Farm Machinery and Equipment Manufacturing	500
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SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing .....	.....	500
333120	Construction Machinery Manufacturing .....	.....	750
333131	Mining Machinery and Equipment Manufacturing .....	.....	500
333132	Oil and Gas Field Machinery and Equipment Manufacturing .....	.....	500
333210	Sawmill and Woodworking Machinery Manufacturing .....	.....	500
333220	Plastics and Rubber Industry Machinery Manufacturing .....	.....	500
333291	Paper Industry Machinery Manufacturing .....	.....	500
333292	Textile Machinery Manufacturing .....	.....	500
333293	Printing Machinery and Equipment Manufacturing .....	.....	500
333294	Food Product Machinery Manufacturing .....	.....	500
333295	Semiconductor Machinery Manufacturing .....	.....	500
333298	All Other Industrial Machinery Manufacturing .....	.....	500
333311	Automatic Vending Machine Manufacturing .....	.....	500
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing .....	.....	500
333313	Office Machinery Manufacturing .....	.....	1,000
333314	Optical Instrument and Lens Manufacturing .....	.....	500
333315	Photographic and Photocopying Equipment Manufacturing .....	.....	500
333319	Other Commercial and Service Industry Machinery Manufacturing .....	.....	500
333411	Air Purification Equipment Manufacturing .....	.....	500
333412	Industrial and Commercial Fan and Blower Manufacturing .....	.....	500
333414	Heating Equipment (except Warm Air Furnaces) Manufacturing .....	.....	500
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing .....	.....	750
333511	Industrial Mold Manufacturing .....	.....	500
333512	Machine Tool (Metal Cutting Types) Manufacturing .....	.....	500
333513	Machine Tool (Metal Forming Types) Manufacturing .....	.....	500
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing .....	.....	500
333515	Cutting Tool and Machine Tool Accessory Manufacturing .....	.....	500
333516	Rolling Mill Machinery and Equipment Manufacturing .....	.....	500
333518	Other Metalworking Machinery Manufacturing .....	.....	500
333611	Turbine and Turbine Generator Set Unit Manufacturing .....	.....	1,000
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing .....	.....	500
333613	Mechanical Power Transmission Equipment Manufacturing .....	.....	500
333618	Other Engine Equipment Manufacturing .....	.....	1,000
333911	Pump and Pumping Equipment Manufacturing .....	.....	500
333912	Air and Gas Compressor Manufacturing .....	.....	500
333913	Measuring and Dispensing Pump Manufacturing .....	.....	500
333921	Elevator and Moving Stairway Manufacturing .....	.....	500
333922	Conveyor and Conveying Equipment Manufacturing .....	.....	500
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing .....	.....	500
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing .....	.....	750
333991	Power-Driven Hand Tool Manufacturing .....	.....	500
333992	Welding and Soldering Equipment Manufacturing .....	.....	500
333993	Packaging Machinery Manufacturing .....	.....	500
333994	Industrial Process Furnace and Oven Manufacturing .....	.....	500
333995	Fluid Power Cylinder and Actuator Manufacturing .....	.....	500
333996	Fluid Power Pump and Motor Manufacturing .....	.....	500
333997	Scale and Balance (except Laboratory) Manufacturing .....	.....	500
333999	All Other Miscellaneous General Purpose Machinery Manufacturing .....	.....	500
Subsector 334—Computer and Electronic Product Manufacturing⁶			
334111	Electronic Computer Manufacturing .....	.....	1,000
334112	Computer Storage Device Manufacturing .....	.....	1,000
334113	Computer Terminal Manufacturing .....	.....	1,000
334119	Other Computer Peripheral Equipment Manufacturing .....	.....	1,000
334210	Telephone Apparatus Manufacturing .....	.....	1,000
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing .....	.....	750
334290	Other Communications Equipment Manufacturing .....	.....	750
334310	Audio and Video Equipment Manufacturing .....	.....	750
334411	Electron Tube Manufacturing .....	.....	750
334412	Bare Printed Circuit Board Manufacturing .....	.....	500
334413	Semiconductor and Related Device Manufacturing .....	.....	500
334414	Electronic Capacitor Manufacturing .....	.....	500
334415	Electronic Resistor Manufacturing .....	.....	500
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing .....	.....	500
334417	Electronic Connector Manufacturing .....	.....	500
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing .....	.....	500
334419	Other Electronic Component Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing .....	.....	500
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing.	.....	750
334512	Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use.	.....	500
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables.	.....	500
334514	Totalizing Fluid Meter and Counting Device Manufacturing .....	.....	500
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals .....	.....	500
334516	Analytical Laboratory Instrument Manufacturing .....	.....	500
334517	Irradiation Apparatus Manufacturing .....	.....	500
334518	Watch, Clock, and Part Manufacturing .....	.....	500
334519	Other Measuring and Controlling Device Manufacturing .....	.....	500
334611	Software Reproducing .....	.....	500
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing .....	.....	750
334613	Magnetic and Optical Recording Media Manufacturing .....	.....	1,000

Subsector 335—Electrical Equipment, Appliance and Component Manufacturing⁶

335110	Electric Lamp Bulb and Part Manufacturing .....	.....	1,000
335121	Residential Electric Lighting Fixture Manufacturing .....	.....	500
335122	Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing .....	.....	500
335129	Other Lighting Equipment Manufacturing .....	.....	500
335211	Electric Housewares and Household Fan Manufacturing .....	.....	750
335212	Household Vacuum Cleaner Manufacturing .....	.....	750
335221	Household Cooking Appliance Manufacturing .....	.....	750
335222	Household Refrigerator and Home Freezer Manufacturing .....	.....	1,000
335224	Household Laundry Equipment Manufacturing .....	.....	1,000
335228	Other Major Household Appliance Manufacturing .....	.....	500
335311	Power, Distribution and Specialty Transformer Manufacturing .....	.....	750
335312	Motor and Generator Manufacturing .....	.....	1,000
335313	Switchgear and Switchboard Apparatus Manufacturing .....	.....	750
335314	Relay and Industrial Control Manufacturing .....	.....	750
335911	Storage Battery Manufacturing .....	.....	500
335912	Primary Battery Manufacturing .....	.....	1,000
335921	Fiber Optic Cable Manufacturing .....	.....	1,000
335929	Other Communication and Energy Wire Manufacturing .....	.....	1,000
335931	Current-Carrying Wiring Device Manufacturing .....	.....	500
335932	Noncurrent-Carrying Wiring Device Manufacturing .....	.....	500
335991	Carbon and Graphite Product Manufacturing .....	.....	750
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing .....	.....	500

Subsector 336—Transportation Equipment Manufacturing⁶

336111	Automobile Manufacturing .....	.....	1,000
336112	Light Truck and Utility Vehicle Manufacturing .....	.....	1,000
336120	Heavy Duty Truck Manufacturing .....	.....	1,000
336211	Motor Vehicle Body Manufacturing .....	.....	1,000
336212	Truck Trailer Manufacturing .....	.....	500
336213	Motor Home Manufacturing .....	.....	1,000
336214	Travel Trailer and Camper Manufacturing .....	.....	500
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing .....	.....	500
336312	Gasoline Engine and Engine Parts Manufacturing .....	.....	750
336321	Vehicular Lighting Equipment Manufacturing .....	.....	500
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing .....	.....	750
336330	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing .....	.....	750
336340	Motor Vehicle Brake System Manufacturing .....	.....	750
336350	Motor Vehicle Transmission and Power Train Parts Manufacturing .....	.....	750
336360	Motor Vehicle Seating and Interior Trim Manufacturing .....	.....	500
336370	Motor Vehicle Metal Stamping .....	.....	500
336391	Motor Vehicle Air-Conditioning Manufacturing .....	.....	750
336399	All Other Motor Vehicle Parts Manufacturing .....	.....	750
336411	Aircraft Manufacturing .....	.....	1,500
336412	Aircraft Engine and Engine Parts Manufacturing .....	.....	1,000
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing ⁷ .....	.....	⁷ 1,000
336414	Guided Missile and Space Vehicle Manufacturing .....	.....	1,000
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing .....	.....	1,000
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing .....	.....	1,000
336510	Railroad Rolling Stock Manufacturing .....	.....	1,000
336611	Ship Building and Repairing .....	.....	1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
336612	Boat Building .....	.....	500
336991	Motorcycle, Bicycle and Parts Manufacturing .....	.....	500
336992	Military Armored Vehicle, Tank and Tank Component Manufacturing .....	.....	1,000
336999	All Other Transportation Equipment Manufacturing .....	.....	500

Subsector 337—Furniture and Related Product Manufacturing

337110	Wood Kitchen Cabinet and Counter Top Manufacturing .....	.....	500
337121	Upholstered Household Furniture Manufacturing .....	.....	500
337122	Nonupholstered Wood Household Furniture Manufacturing .....	.....	500
337124	Metal Household Furniture Manufacturing .....	.....	500
337125	Household Furniture (except Wood and Metal) Manufacturing .....	.....	500
337127	Institutional Furniture Manufacturing .....	.....	500
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing .....	.....	500
337211	Wood Office Furniture Manufacturing .....	.....	500
337212	Custom Architectural Woodwork and Millwork Manufacturing .....	.....	500
337214	Office Furniture (Except Wood) Manufacturing .....	.....	500
337215	Showcase, Partition, Shelving, and Locker Manufacturing .....	.....	500
337910	Mattress Manufacturing .....	.....	500
337920	Blind and Shade Manufacturing .....	.....	500

Subsector 339—Miscellaneous Manufacturing

339111	Laboratory Apparatus and Furniture Manufacturing .....	.....	500
339112	Surgical and Medical Instrument Manufacturing .....	.....	500
339113	Surgical Appliance and Supplies Manufacturing .....	.....	500
339114	Dental Equipment and Supplies Manufacturing .....	.....	500
339115	Ophthalmic Goods Manufacturing .....	.....	500
339116	Dental Laboratories .....	.....	500
339911	Jewelry (except Costume) Manufacturing .....	.....	500
339912	Silverware and Hollowware Manufacturing .....	.....	500
339913	Jewelers' Material and Lapidary Work Manufacturing .....	.....	500
339914	Costume Jewelry and Novelty Manufacturing .....	.....	500
339920	Sporting and Athletic Goods Manufacturing .....	.....	500
339931	Doll and Stuffed Toy Manufacturing .....	.....	500
339932	Game, Toy, and Children's Vehicle Manufacturing .....	.....	500
339941	Pen and Mechanical Pencil Manufacturing .....	.....	500
339942	Lead Pencil and Art Good Manufacturing .....	.....	500
339943	Marking Device Manufacturing .....	.....	500
339944	Carbon Paper and Inked Ribbon Manufacturing .....	.....	500
339950	Sign Manufacturing .....	.....	500
339991	Gasket, Packing, and Sealing Device Manufacturing .....	.....	500
339992	Musical Instrument Manufacturing .....	.....	500
339993	Fastener, Button, Needle and Pin Manufacturing .....	.....	500
339994	Broom, Brush and Mop Manufacturing .....	.....	500
339995	Burial Casket Manufacturing .....	.....	500
339999	All Other Miscellaneous Manufacturing .....	.....	500

Sector 42—Wholesale Trade

(Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Subsector 423—Merchant Wholesalers, Durable Goods

423110	Automobile and Other Motor Vehicle Merchant Wholesalers .....	.....	100
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers .....	.....	100
423130	Tire and Tube Merchant Wholesalers .....	.....	100
423140	Motor Vehicle Parts (Used) Merchant Wholesalers .....	.....	100
423210	Furniture Merchant Wholesalers .....	.....	100
423220	Home Furnishing Merchant Wholesalers .....	.....	100
423310	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers .....	.....	100
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers .....	.....	100
423330	Roofing, Siding, and Insulation Material Merchant Wholesalers .....	.....	100
423390	Other Construction Material Merchant Wholesalers .....	.....	100
423410	Photographic Equipment and Supplies Merchant Wholesalers .....	.....	100
423420	Office Equipment Merchant Wholesalers .....	.....	100
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers .....	.....	100
423440	Other Commercial Equipment Merchant Wholesalers .....	.....	100
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers .....	.....	100
423460	Ophthalmic Goods Merchant Wholesalers .....	.....	100
423490	Other Professional Equipment and Supplies Merchant Wholesalers .....	.....	100

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
423510	Metal Service Centers and Other Metal Merchant Wholesalers .....	.....	100
423520	Coal and Other Mineral and Ore Merchant Wholesalers .....	.....	100
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers .....	.....	100
423620	Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers .....	.....	100
423690	Other Electronic Parts and Equipment Merchant Wholesalers .....	.....	100
423710	Hardware Merchant Wholesalers .....	.....	100
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers .....	.....	100
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers .....	.....	100
423740	Refrigeration Equipment and Supplies Merchant Wholesalers .....	.....	100
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers .....	.....	100
423820	Farm and Garden Machinery and Equipment Merchant Wholesalers .....	.....	100
423830	Industrial Machinery and Equipment Merchant Wholesalers .....	.....	100
423840	Industrial Supplies Merchant Wholesalers .....	.....	100
423850	Service Establishment Equipment and Supplies Merchant Wholesalers .....	.....	100
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers .....	.....	100
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers .....	.....	100
423920	Toy and Hobby Goods and Supplies Merchant Wholesalers .....	.....	100
423930	Recyclable Material Merchant Wholesalers .....	.....	100
423940	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers .....	.....	100
423990	Other Miscellaneous Durable Goods Merchant Wholesalers .....	.....	100

Subsector 424—Merchant Wholesalers, Nondurable Goods

424110	Printing and Writing Paper Merchant Wholesalers .....	.....	100
424120	Stationary and Office Supplies Merchant Wholesalers .....	.....	100
424130	Industrial and Personal Service Paper Merchant Wholesalers .....	.....	100
424210	Drugs and Druggists' Sundries Merchant Wholesalers .....	.....	100
424310	Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers .....	.....	100
424320	Men's and Boys' Clothing and Furnishings Merchant Wholesalers .....	.....	100
424330	Women's, Children's, and Infants' Clothing and Accessories Merchant Wholesalers .....	.....	100
424340	Footwear Merchant Wholesalers .....	.....	100
424410	General Line Grocery Merchant Wholesalers .....	.....	100
424420	Packaged Frozen Food Merchant Wholesalers .....	.....	100
424430	Dairy Product (except Dried or Canned) Merchant Wholesalers .....	.....	100
424440	Poultry and Poultry Product Merchant Wholesalers .....	.....	100
424450	Confectionery Merchant Wholesalers .....	.....	100
424460	Fish and Seafood Merchant Wholesalers .....	.....	100
424470	Meat and Meat Product Merchant Wholesalers .....	.....	100
424480	Fresh Fruit and Vegetable Merchant Wholesalers .....	.....	100
424490	Other Grocery and Related Products Merchant Wholesalers .....	.....	100
424510	Grain and Field Bean Merchant Wholesalers .....	.....	100
424520	Livestock Merchant Wholesalers .....	.....	100
424590	Other Farm Product Raw Material Merchant Wholesalers .....	.....	100
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers .....	.....	100
424690	Other Chemical and Allied Products Merchant Wholesalers .....	.....	100
424710	Petroleum Bulk Stations and Terminals .....	.....	100
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals) .....	.....	100
424810	Beer and Ale Merchant Wholesalers .....	.....	100
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers .....	.....	100
424910	Farm Supplies Merchant Wholesalers .....	.....	100
424920	Book, Periodical, and Newspaper Merchant Wholesalers .....	.....	100
424930	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers .....	.....	100
424940	Tobacco and Tobacco Product Merchant Wholesalers .....	.....	100
424950	Paint, Varnish, and Supplies Merchant Wholesalers .....	.....	100
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers .....	.....	100

Subsector 425—Wholesale Electronic Markets and Agents and Brokers

425110	Business to Business Electronic Markets .....	.....	100
425120	Wholesale Trade Agents and Brokers .....	.....	100

Sectors 44–45—Retail Trade

(Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Subsector 441—Motor Vehicle and Parts Dealers

441110	New Car Dealers	\$24.5	.....
441120	Used Car Dealers	\$19.5	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
441210	Recreational Vehicle Dealers	\$6.0	.....
441221	Motorcycle Dealers	\$6.0	.....
441222	Boat Dealers	\$6.0	.....
441229	All Other Motor Vehicle Dealers	\$6.0	.....
EXCEPT	Aircraft Dealers, Retail	\$8.5	.....
441310	Automotive Parts and Accessories Stores	\$6.0	.....
441320	Tire Dealers	\$6.0	.....
Subsector 442—Furniture and Home Furnishings Stores			
442110	Furniture Stores	\$6.0	.....
442210	Floor Covering Stores	\$6.0	.....
442291	Window Treatment Stores	\$6.0	.....
442299	All Other Home Furnishings Stores	\$6.0	.....
Subsector 443—Electronics and Appliance Stores			
443111	Household Appliance Stores	\$7.5	.....
443112	Radio, Television and Other Electronics Stores	\$7.5	.....
443120	Computer and Software Stores	\$7.5	.....
443130	Camera and Photographic Supplies Stores	\$6.0	.....
Subsector 444—Building Material and Garden Equipment and Supplies Dealers			
444110	Home Centers	\$6.0	.....
444120	Paint and Wallpaper Stores	\$6.0	.....
444130	Hardware Stores	\$6.0	.....
444190	Other Building Material Dealers	\$6.0	.....
444210	Outdoor Power Equipment Stores	\$6.0	.....
444220	Nursery and Garden Centers	\$6.0	.....
Subsector 445—Food and Beverage Stores			
445110	Supermarkets and Other Grocery (except Convenience) Stores	\$23.0	.....
445120	Convenience Stores	\$23.0	.....
445210	Meat Markets	\$6.0	.....
445220	Fish and Seafood Markets	\$6.0	.....
445230	Fruit and Vegetable Markets	\$6.0	.....
445291	Baked Goods Stores	\$6.0	.....
445292	Confectionery and Nut Stores	\$6.0	.....
445299	All Other Specialty Food Stores	\$6.0	.....
445310	Beer, Wine and Liquor Stores	\$6.0	.....
Subsector 446—Health and Personal Care Stores			
446110	Pharmacies and Drug Stores	\$6.0	.....
446120	Cosmetics, Beauty Supplies and Perfume Stores	\$6.0	.....
446130	Optical Goods Stores	\$6.0	.....
446191	Food (Health) Supplement Stores	\$6.0	.....
446199	All Other Health and Personal Care Stores	\$6.0	.....
Subsector 447—Gasoline Stations			
447110	Gasoline Stations with Convenience Stores	\$23.0	.....
447190	Other Gasoline Stations	\$7.5	.....
Subsector 448—Clothing and Clothing Accessories Stores			
448110	Men's Clothing Stores	\$7.5	.....
448120	Women's Clothing Stores	\$7.5	.....
448130	Children's and Infants' Clothing Stores	\$6.0	.....
448140	Family Clothing Stores	\$7.5	.....
448150	Clothing Accessories Stores	\$6.0	.....
448190	Other Clothing Stores	\$6.0	.....
448210	Shoe Stores	\$7.5	.....
448310	Jewelry Stores	\$6.0	.....
448320	Luggage and Leather Goods Stores	\$6.0	.....
Subsector 451—Sporting Good, Hobby, Book and Music Stores			
451110	Sporting Goods Stores	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
451120	Hobby, Toy and Game Stores	\$6.0	.....
451130	Sewing, Needlework and Piece Goods Stores	\$6.0	.....
451140	Musical Instrument and Supplies Stores	\$6.0	.....
451211	Book Stores	\$6.0	.....
451212	News Dealers and Newsstands	\$6.0	.....
451220	Prerecorded Tape, Compact Disc and Record Stores	\$6.0	.....
Subsector 452—General Merchandise Stores			
452111	Department Stores (except Discount Department Stores)	\$23.0	.....
452112	Discount Department Stores	\$23.0	.....
452910	Warehouse Clubs and Superstores	\$23.0	.....
452990	All Other General Merchandise Stores	\$9.5	.....
Subsector 453—Miscellaneous Store Retailers			
453110	Florists	\$6.0	.....
453210	Office Supplies and Stationery Stores	\$6.0	.....
453220	Gift, Novelty and Souvenir Stores	\$6.0	.....
453310	Used Merchandise Stores	\$6.0	.....
453910	Pet and Pet Supplies Stores	\$6.0	.....
453920	Art Dealers	\$6.0	.....
453930	Manufactured (Mobile) Home Dealers	\$11.0	.....
453991	Tobacco Stores	\$6.0	.....
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$6.0	.....
454111	Electronic Shopping	\$21.0	.....
454112	Electronic Auctions	\$21.0	.....
454113	Mail-Order Houses	\$21.0	.....
454210	Vending Machine Operators	\$6.0	.....
454311	Heating Oil Dealers	\$10.5	.....
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	\$6.0	.....
454319	Other Fuel Dealers	\$6.0	.....
454390	Other Direct Selling Establishments	\$6.0	.....
Sectors 48–49—Transportation			
Subsector 481—Air Transportation			
481111	Scheduled Passenger Air Transportation .....	.....	1,500
481112	Scheduled Freight Air Transportation .....	.....	1,500
481211	Nonscheduled Chartered Passenger Air Transportation .....	.....	1,500
EXCEPT, 481212	Offshore Marine Air Transportation Services	\$23.5	.....
EXCEPT, 481219	Nonscheduled Chartered Freight Air Transportation .....	.....	1,500
481219	Offshore Marine Air Transportation Services	\$23.5	.....
481219	Other Nonscheduled Air Transportation	\$6.0	.....
Subsector 482—Rail Transportation			
482111	Line-Haul Railroads .....	.....	1,500
482112	Short Line Railroads .....	.....	500
Subsector 483—Water Transportation ¹⁵			
483111	Deep Sea Freight Transportation .....	.....	500
483112	Deep Sea Passenger Transportation .....	.....	500
483113	Coastal and Great Lakes Freight Transportation .....	.....	500
483114	Coastal and Great Lakes Passenger Transportation .....	.....	500
483211	Inland Water Freight Transportation .....	.....	500
483212	Inland Water Passenger Transportation .....	.....	500
Subsector 484—Truck Transportation			
484110	General Freight Trucking, Local	\$21.5	.....
484121	General Freight Trucking, Long-Distance, Truckload	\$21.5	.....
484122	General Freight Trucking, Long-Distance, Less Than Truckload	\$21.5	.....
484210	Used Household and Office Goods Moving	\$21.5	.....
484220	Specialized Freight (except Used Goods) Trucking, Local	\$21.5	.....
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	\$21.5	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 485—Transit and Ground Passenger Transportation			
485111	Mixed Mode Transit Systems	\$6.0	.....
485112	Commuter Rail Systems	\$6.0	.....
485113	Bus and Motor Vehicle Transit Systems	\$6.0	.....
485119	Other Urban Transit Systems	\$6.0	.....
485210	Interurban and Rural Bus Transportation	\$6.0	.....
485310	Taxi Service	\$6.0	.....
485320	Limousine Service	\$6.0	.....
485410	School and Employee Bus Transportation	\$6.0	.....
485510	Charter Bus Industry	\$6.0	.....
485991	Special Needs Transportation	\$6.0	.....
485999	All Other Transit and Ground Passenger Transportation	\$6.0	.....
Subsector 486—Pipeline Transportation			
486110	Pipeline Transportation of Crude Oil .....	.....	1,500
486210	Pipeline Transportation of Natural Gas	\$6.0	.....
486910	Pipeline Transportation of Refined Petroleum Products .....	.....	1,500
486990	All Other Pipeline Transportation	\$29.0	.....
Subsector 487—Scenic and Sightseeing Transportation			
487110	Scenic and Sightseeing Transportation, Land	\$6.0	.....
487210	Scenic and Sightseeing Transportation, Water	\$6.0	.....
487990	Scenic and Sightseeing Transportation, Other	\$6.0	.....
Subsector 488—Support Activities for Transportation			
488111	Air Traffic Control	\$6.0	.....
488119	Other Airport Operations	\$6.0	.....
488190	Other Support Activities for Air Transportation	\$6.0	.....
488210	Support Activities for Rail Transportation	\$6.0	.....
488310	Port and Harbor Operations	\$21.5	.....
488320	Marine Cargo Handling	\$21.5	.....
488330	Navigational Services to Shipping	\$6.0	.....
488390	Other Support Activities for Water Transportation	\$6.0	.....
488410	Motor Vehicle Towing	\$6.0	.....
488490	Other Support Activities for Road Transportation	\$6.0	.....
488510	Freight Transportation Arrangement ¹⁰	¹⁰ \$6.0	.....
EXCEPT,	Non-Vessel Owning Common Carriers and Household Goods Forwarders	\$21.5	.....
488991	Packing and Crating	\$21.5	.....
488999	All Other Support Activities for Transportation	\$6.0	.....
Subsector 491—Postal Service			
491110	Postal Service	\$6.0	.....
Subsector 492—Couriers and Messengers			
492110	Couriers .....	.....	1,500
492210	Local Messengers and Local Delivery	\$21.5	.....
Subsector 493—Warehousing and Storage			
493110	General Warehousing and Storage	\$21.5	.....
493120	Refrigerated Warehousing and Storage	\$21.5	.....
493130	Farm Product Warehousing and Storage	\$21.5	.....
493190	Other Warehousing and Storage	\$21.5	.....
Sector 51—Information			
Subsector 511—Publishing Industries (except Internet)			
511110	Newspaper Publishers .....	.....	500
511120	Periodical Publishers .....	.....	500
511130	Book Publishers .....	.....	500
511140	Directory and Mailing List Publishers .....	.....	500
511191	Greeting Card Publishers .....	.....	500
511199	All Other Publishers .....	.....	500
511210	Software Publishers	\$21.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 512—Motion Picture and Sound Recording Industries			
512110	Motion Picture and Video Production	\$25.0	.....
512120	Motion Picture and Video Distribution	\$25.0	.....
512131	Motion Picture Theaters (except Drive-Ins)	\$6.0	.....
512132	Drive-In Motion Picture Theaters	\$6.0	.....
512191	Teleproduction and Other Postproduction Services	\$25.0	.....
512199	Other Motion Picture and Video Industries	\$6.0	.....
512210	Record Production	\$6.0	.....
512220	Integrated Record Production/Distribution .....	.....	750
512230	Music Publishers .....	.....	500
512240	Sound Recording Studios	\$6.0	.....
512290	Other Sound Recording Industries	\$6.0	.....
Subsector 515—Broadcasting (except Internet)			
515111	Radio Networks	\$6.0	.....
515112	Radio Stations	\$6.0	.....
515120	Television Broadcasting	\$12.0	.....
515210	Cable and Other Subscription Programming	\$12.5	.....
Subsector 516—Internet Publishing and Broadcasting			
516110	Internet Publishing and Broadcasting .....	.....	500
Subsector 517—Telecommunications			
517110	Wired Telecommunications Carriers .....	.....	1,500
517211	Paging .....	.....	1,500
517212	Cellular and Other Wireless Telecommunications .....	.....	1,500
517310	Telecommunications Resellers .....	.....	1,500
517410	Satellite Telecommunications	\$12.5	.....
517510	Cable and Other Program Distribution	\$12.5	.....
517910	Other Telecommunications	\$12.5	.....
Subsector 518—Internet Service Providers, Web Search Portals, and Data Processing Services			
518111	Internet Service Providers	\$21.0	.....
518112	Web Search Portals	\$6.0	.....
518210	Data Processing, Hosting, and Related Services	\$21.0	.....
Subsector 519—Other Information Services			
519110	News Syndicates	\$6.0	.....
519120	Libraries and Archives	\$6.0	.....
519190	All Other Information Services	\$6.0	.....
Sector 52—Finance and Insurance			
Subsector 522—Credit Intermediation and Related Activities			
522110	Commercial Banking ⁸	\$150 million in assets ⁸	.....
522120	Savings Institutions ⁸	\$150 million in assets ⁸	.....
522130	Credit Unions ⁸	\$150 million in assets ⁸	.....
522190	Other Depository Credit Intermediation ⁸	\$150 million in assets ⁸	.....
522210	Credit Card Issuing ⁸	\$150 million in assets ⁸	.....
522220	Sales Financing	\$6.0	.....
522291	Consumer Lending	\$6.0	.....
522292	Real Estate Credit	\$6.0	.....
522293	International Trade Financing ⁸	\$150 million in assets ⁸	.....
522294	Secondary Market Financing	\$6.0	.....
522298	All Other Non-Depository Credit Intermediation	\$6.0	.....
522310	Mortgage and Nonmortgage Loan Brokers	\$6.0	.....
522320	Financial Transactions Processing, Reserve, and Clearing House Activities	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
522390	Other Activities Related to Credit Intermediation	\$6.0	.....
Subsector 523—Financial Investments and Related Activities			
523110	Investment Banking and Securities Dealing	\$6.0	.....
523120	Securities Brokerage	\$6.0	.....
523130	Commodity Contracts Dealing	\$6.0	.....
523140	Commodity Contracts Brokerage	\$6.0	.....
523210	Securities and Commodity Exchanges	\$6.0	.....
523910	Miscellaneous Intermediation	\$6.0	.....
523920	Portfolio Management	\$6.0	.....
523930	Investment Advice	\$6.0	.....
523991	Trust, Fiduciary and Custody Activities	\$6.0	.....
523999	Miscellaneous Financial Investment Activities	\$6.0	.....
Subsector 524—Insurance Carriers and Related Activities			
524113	Direct Life Insurance Carriers	\$6.0	.....
524114	Direct Health and Medical Insurance Carriers	\$6.0	.....
524126	Direct Property and Casualty Insurance Carriers .....	.....	1,500
524127	Direct Title Insurance Carriers	\$6.0	.....
524128	Other Direct Insurance (except Life, Health and Medical) Carriers	\$6.0	.....
524130	Reinsurance Carriers	\$6.0	.....
524210	Insurance Agencies and Brokerages	\$6.0	.....
524291	Claims Adjusting	\$6.0	.....
524292	Third Party Administration of Insurance and Pension Funds	\$6.0	.....
524298	All Other Insurance Related Activities	\$6.0	.....
Subsector 525—Funds, Trusts and Other Financial Vehicles			
525110	Pension Funds	\$6.0	.....
525120	Health and Welfare Funds	\$6.0	.....
525190	Other Insurance Funds	\$6.0	.....
525910	Open-End Investment Funds	\$6.0	.....
525920	Trusts, Estates, and Agency Accounts	\$6.0	.....
525930	Real Estate Investment Trusts	\$6.0	.....
525990	Other Financial Vehicles	\$6.0	.....
Sector 53—Real Estate and Rental and Leasing			
Subsector 531—Real Estate			
531110	Lessors of Residential Buildings and Dwellings	\$6.0	.....
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	\$6.0	.....
531130	Lessors of Miniwarehouses and Self Storage Units	\$21.5	.....
531190	Lessors of Other Real Estate Property	\$6.0	.....
EXCEPT,	Leasing of Building Space to Federal Government by Owners	⁹ \$17.5	.....
531210	Offices of Real Estate Agents and Brokers ⁹	¹⁰ \$1.5	.....
531311	Residential Property Managers ¹⁰	\$1.5	.....
531312	Nonresidential Property Managers	\$1.5	.....
531320	Offices of Real Estate Appraisers	\$1.5	.....
531390	Other Activities Related to Real Estate	\$1.5	.....
Subsector 532—Rental and Leasing Services			
532111	Passenger Car Rental	\$21.5	.....
532112	Passenger Car Leasing	\$21.5	.....
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	\$21.5	.....
532210	Consumer Electronics and Appliances Rental	\$6.0	.....
532220	Formal Wear and Costume Rental	\$6.0	.....
532230	Video Tape and Disc Rental	\$6.0	.....
532291	Home Health Equipment Rental	\$6.0	.....
532292	Recreational Goods Rental	\$6.0	.....
532299	All Other Consumer Goods Rental	\$6.0	.....
532310	General Rental Centers	\$6.0	.....
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	\$6.0	.....
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	\$6.0	.....
532420	Office Machinery and Equipment Rental and Leasing	\$21.0	.....
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 533—Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)			
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	\$6.0	.....
Sector 54—Professional, Scientific and Technical Services			
Subsector 541—Professional, Scientific and Technical Services			
541110	Offices of Lawyers	\$6.0	.....
541191	Title Abstract and Settlement Offices	\$6.0	.....
541199	All Other Legal Services	\$6.0	.....
541211	Offices of Certified Public Accountants	\$7.0	.....
541213	Tax Preparation Services	\$6.0	.....
541214	Payroll Services	\$7.0	.....
541219	Other Accounting Services	\$7.0	.....
541310	Architectural Services	\$4.0	.....
541320	Landscape Architectural Services	\$6.0	.....
541330	Engineering Services	\$4.0	.....
EXCEPT, EXCEPT,	Military and Aerospace Equipment and Military Weapons	\$23.0	.....
EXCEPT,	Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992.	\$23.0	.....
EXCEPT,	Marine Engineering and Naval Architecture	\$15.5	.....
541340	Drafting Services	\$6.0	.....
EXCEPT,	Map Drafting	\$4.0	.....
541350	Building Inspection Services	\$6.0	.....
541360	Geophysical Surveying and Mapping Services	\$4.0	.....
541370	Surveying and Mapping (except Geophysical) Services	\$4.0	.....
541380	Testing Laboratories	\$6.0	.....
541410	Interior Design Services	\$6.0	.....
541420	Industrial Design Services	\$6.0	.....
541430	Graphic Design Services	\$6.0	.....
541490	Other Specialized Design Services	\$6.0	.....
541511	Custom Computer Programming Services	\$21.0	.....
541512	Computer Systems Design Services	\$21.0	.....
541513	Computer Facilities Management Services	\$21.0	.....
541519	Other Computer Related Services	\$21.0	.....
541611	Administrative Management and General Management Consulting Services	\$6.0	.....
541612	Human Resources and Executive Search Consulting Services	\$6.0	.....
541613	Marketing Consulting Services	\$6.0	.....
541614	Process, Physical Distribution and Logistics Consulting Services	\$6.0	.....
541618	Other Management Consulting Services	\$6.0	.....
541620	Environmental Consulting Services	\$6.0	.....
541690	Other Scientific and Technical Consulting Services	\$6.0	.....
541710	Research and Development in the Physical, Engineering, and Life Sciences ¹¹ .....	.....	¹¹ 500
EXCEPT,	Aircraft .....	.....	1,500
EXCEPT,	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engine Parts .....	.....	1,000
EXCEPT,	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts. ....	.....	1,000
541720	Research and Development in the Social Sciences and Humanities	\$6.0	.....
541810	Advertising Agencies ¹⁰	¹⁰ \$6.0	.....
541820	Public Relations Agencies	\$6.0	.....
541830	Media Buying Agencies	\$6.0	.....
541840	Media Representatives	\$6.0	.....
541850	Display Advertising	\$6.0	.....
541860	Direct Mail Advertising	\$6.0	.....
541870	Advertising Material Distribution Services	\$6.0	.....
541890	Other Services Related to Advertising	\$6.0	.....
541910	Marketing Research and Public Opinion Polling	\$6.0	.....
541921	Photography Studios, Portrait	\$6.0	.....
541922	Commercial Photography	\$6.0	.....
541930	Translation and Interpretation Services	\$6.0	.....
541940	Veterinary Services	\$6.0	.....
541990	All Other Professional, Scientific and Technical Services	\$6.0	.....
Sector 55—Management of Companies and Enterprises			
Subsector 551—Management of Companies and Enterprises			
551111	Offices of Bank Holding Companies	\$6.0	.....
551112	Offices of Other Holding Companies	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Sector 56—Administrative and Support, Waste Management and Remediation Services			
Subsector 561—Administrative and Support Services			
561110	Office Administrative Services	\$6.0	.....
561210	Facilities Support Services ¹²	¹² \$6.0	.....
<i>EXCEPT,</i>	Base Maintenance ¹³	¹³ \$23.0	.....
561310	Employment Placement Agencies	\$6.0	.....
561320	Temporary Help Services	\$11.5	.....
561330	Employee Leasing Services	\$11.5	.....
561410	Document Preparation Services	\$6.0	.....
561421	Telephone Answering Services	\$6.0	.....
561422	Telemarketing Bureaus	\$6.0	.....
561431	Private Mail Centers	\$6.0	.....
561439	Other Business Service Centers (including Copy Shops)	\$6.0	.....
561440	Collection Agencies	\$6.0	.....
561450	Credit Bureaus	\$6.0	.....
561491	Repossession Services	\$6.0	.....
561492	Court Reporting and Stenotype Services	\$6.0	.....
561499	All Other Business Support Services	\$6.0	.....
561510	Travel Agencies ¹⁰	¹⁰ \$3.0	.....
561520	Tour Operators	\$6.0	.....
561591	Convention and Visitors Bureaus	\$6.0	.....
561599	All Other Travel Arrangement and Reservation Services	\$6.0	.....
561611	Investigation Services	\$10.5	.....
561612	Security Guards and Patrol Services	\$10.5	.....
561613	Armored Car Services	\$10.5	.....
561621	Security Systems Services (except Locksmiths)	\$10.5	.....
561622	Locksmiths	\$6.0	.....
561710	Exterminating and Pest Control Services	\$6.0	.....
561720	Janitorial Services	\$14.0	.....
561730	Landscaping Services	\$6.0	.....
561740	Carpet and Upholstery Cleaning Services	\$4.0	.....
561790	Other Services to Buildings and Dwellings	\$6.0	.....
561910	Packaging and Labeling Services	\$6.0	.....
561920	Convention and Trade Show Organizers ¹⁰	¹⁰ \$6.0	.....
561990	All Other Support Services	\$6.0	.....
Subsector 562—Waste Management and Remediation Services			
562111	Solid Waste Collection	\$10.5	.....
562112	Hazardous Waste Collection	\$10.5	.....
562119	Other Waste Collection	\$10.5	.....
562211	Hazardous Waste Treatment and Disposal	\$10.5	.....
562212	Solid Waste Landfill	\$10.5	.....
562213	Solid Waste Combustors and Incinerators	\$10.5	.....
562219	Other Nonhazardous Waste Treatment and Disposal	\$10.5	.....
562910	Remediation Services	\$12.0	.....
<i>EXCEPT,</i>	Environmental Remediation Services ¹⁴	¹⁴ 500	.....
562920	Materials Recovery Facilities	\$10.5	.....
562991	Septic Tank and Related Services	\$6.0	.....
562998	All Other Miscellaneous Waste Management Services	\$6.0	.....
Sector 61—Educational Services			
Subsector 611—Educational Services			
611110	Elementary and Secondary Schools	\$6.0	.....
611210	Junior Colleges	\$6.0	.....
611310	Colleges, Universities and Professional Schools	\$6.0	.....
611410	Business and Secretarial Schools	\$6.0	.....
611420	Computer Training	\$6.0	.....
611430	Professional and Management Development Training	\$6.0	.....
611511	Cosmetology and Barber Schools	\$6.0	.....
611512	Flight Training	\$21.5	.....
611513	Apprenticeship Training	\$6.0	.....
611519	Other Technical and Trade Schools	\$6.0	.....
611610	Fine Arts Schools	\$6.0	.....
611620	Sports and Recreation Instruction	\$6.0	.....
611630	Language Schools	\$6.0	.....
611691	Exam Preparation and Tutoring	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
611692	Automobile Driving Schools	\$6.0	.....
611699	All Other Miscellaneous Schools and Instruction	\$6.0	.....
611710	Educational Support Services	\$6.0	.....
Sector 62—Health Care and Social Assistance			
Subsector 621—Ambulatory Health Care Services			
621111	Offices of Physicians (except Mental Health Specialists)	\$8.5	.....
621112	Offices of Physicians, Mental Health Specialists	\$8.5	.....
621210	Offices of Dentists	\$6.0	.....
621310	Offices of Chiropractors	\$6.0	.....
621320	Offices of Optometrists	\$6.0	.....
621330	Offices of Mental Health Practitioners (except Physicians)	\$6.0	.....
621340	Offices of Physical, Occupational and Speech Therapists and Audiologists	\$6.0	.....
621391	Offices of Podiatrists	\$6.0	.....
621399	Offices of All Other Miscellaneous Health Practitioners	\$6.0	.....
621410	Family Planning Centers	\$8.5	.....
621420	Outpatient Mental Health and Substance Abuse Centers	\$8.5	.....
621491	HMO Medical Centers	\$8.5	.....
621492	Kidney Dialysis Centers	\$29.0	.....
621493	Freestanding Ambulatory Surgical and Emergency Centers	\$8.5	.....
621498	All Other Outpatient Care Centers	\$8.5	.....
621511	Medical Laboratories	\$11.5	.....
621512	Diagnostic Imaging Centers	\$11.5	.....
621610	Home Health Care Services	\$11.5	.....
621910	Ambulance Services	\$6.0	.....
621991	Blood and Organ Banks	\$8.5	.....
621999	All Other Miscellaneous Ambulatory Health Care Services	\$8.5	.....
Subsector 622—Hospitals			
622110	General Medical and Surgical Hospitals	\$29.0	.....
622210	Psychiatric and Substance Abuse Hospitals	\$29.0	.....
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$29.0	.....
Subsector 623—Nursing and Residential Care Facilities			
623110	Nursing Care Facilities	\$11.5	.....
623210	Residential Mental Retardation Facilities	\$8.5	.....
623220	Residential Mental Health and Substance Abuse Facilities	\$6.0	.....
623311	Continuing Care Retirement Communities	\$11.5	.....
623312	Homes for the Elderly	\$6.0	.....
623990	Other Residential Care Facilities	\$6.0	.....
Subsector 624—Social Assistance			
624110	Child and Youth Services	\$6.0	.....
624120	Services for the Elderly and Persons with Disabilities	\$6.0	.....
624190	Other Individual and Family Services	\$6.0	.....
624210	Community Food Services	\$6.0	.....
624221	Temporary Shelters	\$6.0	.....
624229	Other Community Housing Services	\$6.0	.....
624230	Emergency and Other Relief Services	\$6.0	.....
624310	Vocational Rehabilitation Services	\$6.0	.....
624410	Child Day Care Services	\$6.0	.....
Sector 71—Arts, Entertainment and Recreation			
Subsector 711—Performing Arts, Spectator Sports and Related Industries			
711110	Theater Companies and Dinner Theaters	\$6.0	.....
711120	Dance Companies	\$6.0	.....
711130	Musical Groups and Artists	\$6.0	.....
711190	Other Performing Arts Companies	\$6.0	.....
711211	Sports Teams and Clubs	\$6.0	.....
711212	Race Tracks	\$6.0	.....
711219	Other Spectator Sports	\$6.0	.....
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	\$6.0	.....
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	\$6.0	.....
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
711510	Independent Artists, Writers, and Performers	\$6.0	.....
Subsector 712—Museums, Historical Sites and Similar Institutions			
712110	Museums	\$6.0	.....
712120	Historical Sites	\$6.0	.....
712130	Zoos and Botanical Gardens	\$6.0	.....
712190	Nature Parks and Other Similar Institutions	\$6.0	.....
Subsector 713—Amusement, Gambling and Recreation Industries			
713110	Amusement and Theme Parks	\$6.0	.....
713120	Amusement Arcades	\$6.0	.....
713210	Casinos (except Casino Hotels)	\$6.0	.....
713290	Other Gambling Industries	\$6.0	.....
713910	Golf Courses and Country Clubs	\$6.0	.....
713920	Skiing Facilities	\$6.0	.....
713930	Marinas	\$6.0	.....
713940	Fitness and Recreational Sports Centers	\$6.0	.....
713950	Bowling Centers	\$6.0	.....
713990	All Other Amusement and Recreation Industries	\$6.0	.....
Sector 72—Accommodation and Food Services			
Subsector 721—Accommodation			
721110	Hotels (except Casino Hotels) and Motels	\$6.0	.....
721120	Casino Hotels	\$6.0	.....
721191	Bed and Breakfast Inns	\$6.0	.....
721199	All Other Traveler Accommodation	\$6.0	.....
721211	RV (Recreational Vehicle) Parks and Campgrounds	\$6.0	.....
721214	Recreational and Vacation Camps (except Campgrounds)	\$6.0	.....
721310	Rooming and Boarding Houses	\$6.0	.....
Subsector 722—Food Services and Drinking Places			
722110	Full-Service Restaurants	\$6.0	.....
722211	Limited-Service Restaurants	\$6.0	.....
722212	Cafeterias	\$6.0	.....
722213	Snack and Nonalcoholic Beverage Bars	\$6.0	.....
722310	Food Service Contractors	\$17.5	.....
722320	Caterers	\$6.0	.....
722330	Mobile Food Services	\$6.0	.....
722410	Drinking Places (Alcoholic Beverages)	\$6.0	.....
Sector 81—Other Services			
Subsector 811—Repair and Maintenance			
811111	General Automotive Repair	\$6.0	.....
811112	Automotive Exhaust System Repair	\$6.0	.....
811113	Automotive Transmission Repair	\$6.0	.....
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	\$6.0	.....
811121	Automotive Body, Paint and Interior Repair and Maintenance	\$6.0	.....
811122	Automotive Glass Replacement Shops	\$6.0	.....
811191	Automotive Oil Change and Lubrication Shops	\$6.0	.....
811192	Car Washes	\$6.0	.....
811198	All Other Automotive Repair and Maintenance	\$6.0	.....
811211	Consumer Electronics Repair and Maintenance	\$6.0	.....
811212	Computer and Office Machine Repair and Maintenance	\$21.0	.....
811213	Communication Equipment Repair and Maintenance	\$6.0	.....
811219	Other Electronic and Precision Equipment Repair and Maintenance	\$6.0	.....
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	\$6.0	.....
811411	Home and Garden Equipment Repair and Maintenance	\$6.0	.....
811412	Appliance Repair and Maintenance	\$6.0	.....
811420	Reupholstery and Furniture Repair	\$6.0	.....
811430	Footwear and Leather Goods Repair	\$6.0	.....
811490	Other Personal and Household Goods Repair and Maintenance	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 812—Personal and Laundry Services			
812111	Barber Shops	\$6.0	.....
812112	Beauty Salons	\$6.0	.....
812113	Nail Salons	\$6.0	.....
812191	Diet and Weight Reducing Centers	\$6.0	.....
812199	Other Personal Care Services	\$6.0	.....
812210	Funeral Homes and Funeral Services	\$6.0	.....
812220	Cemeteries and Crematories	\$6.0	.....
812310	Coin-Operated Laundries and Drycleaners	\$6.0	.....
812320	Drycleaning and Laundry Services (except Coin-Operated)	\$4.0	.....
812331	Linen Supply	\$12.0	.....
812332	Industrial Launderers	\$12.0	.....
812910	Pet Care (except Veterinary) Services	\$6.0	.....
812921	Photo Finishing Laboratories (except One-Hour)	\$6.0	.....
812922	One-Hour Photo Finishing	\$6.0	.....
812930	Parking Lots and Garages	\$6.0	.....
812990	All Other Personal Services	\$6.0	.....
Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations			
813110	Religious Organizations	\$6.0	.....
813211	Grantmaking Foundations	\$6.0	.....
813212	Voluntary Health Organizations	\$6.0	.....
813219	Other Grantmaking and Giving Services	\$6.0	.....
813311	Human Rights Organizations	\$6.0	.....
813312	Environment, Conservation and Wildlife Organizations	\$6.0	.....
813319	Other Social Advocacy Organizations	\$6.0	.....
813410	Civic and Social Organizations	\$6.0	.....
813910	Business Associations	\$6.0	.....
813920	Professional Organizations	\$6.0	.....
813930	Labor Unions and Similar Labor Organizations	\$6.0	.....
813940	Political Organizations	\$6.0	.....
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organiza- tions).	\$6.0	.....

Footnotes

1. NAICS codes 221111, 221112, 221113, 221119, 221121, and 221122—A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

2. NAICS code 237990—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own equipment or equipment owned by another small dredging concern.

3. NAICS code 311421—For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in 3306(k) of the Internal Revenue Code, 26 U.S.C. 3306(k).

4. NAICS code 324110—For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least

90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

5. NAICS code 326211—For Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(a) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture,

(b) The value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(c) The value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

6. NAICS Subsectors 333, 334, 335 and 336—For rebuilding machinery or equipment on a factory basis, or equivalent, use the NAICS code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not

necessarily have to meet the criteria for being a “manufacturer” although the activities may be classified under a manufacturing NAICS code. Ordinary repair services or preservation are not considered rebuilding.

7. NAICS code 336413—Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under NAICS code 336413.

8. NAICS Codes 522110, 522120, 522130, 522190, 522210 and 522293—A financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. “Assets” for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

9. NAICS code 531190—Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of \$17.5 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

10. NAICS codes 488510 (part), 531210, 541810, 561510 and 561920—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

11. *NAICS code 541710*—For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(a) “Research and Development” means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(c) “Research and Development” for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

12. *NAICS code 561210*—Facilities Management, a component of NAICS 561210, includes establishments, not classified elsewhere, which provide overall management and personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to secretarial services, typists, word processing, maintaining files and/or libraries, telephone answering, switchboard operation, reproduction or mimeograph service, mailing service, writers, bookkeeping, financial or business management, public relations, conference planning, minor office equipment maintenance and repair, use of information systems (not programming), word processing, travel arrangements, maintaining files and/or libraries.

13. *NAICS code 238990 (All Other Special Trade Contractors)* and *NAICS code 561210 (Facilities Support Services)*—Base Maintenance:

(a) If one of the activities of base maintenance, as defined in paragraph (b) (below in this endnote) can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(b) “Base Maintenance” requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate NAICS code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required

for a contract to be classified as “Base Maintenance.”

14. *NAICS 562910*—Environmental Remediation Services:

(a) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(b) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate NAICS codes or, in some instances (e.g., engineering), smaller sub-components of NAICS codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

15. *Subsector 483—Water Transportation—Offshore Marine Services*: The applicable size standard shall be \$23.5 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production, or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

Dated: August 26, 2002.

Gary M. Jackson,

Assistant Administrator for Size Standards.

[FR Doc. 02-22200 Filed 9-5-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Final decision to waive the nonmanufacturer rule.

SUMMARY: This document advises the public that the U.S. Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Small Arms Ammunition Manufacturing. The basis for waivers is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: September 6, 2002.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC 20416 Tel: (202) 619-0422.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small business or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b) and section 303(h) of the law provides for waiver of this requirement by SBA for any “class of products” for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months.

The SBA defines “class of products” based on six digit coding systems. The North American Industry Classification System (NAICS) replaced the Standard Industrial Classification (SIC) code. The second is the Product and Service Code established by the Federal Procurement Data System.

This document waives the Nonmanufacturer Rule for Small Arms

Ammunition Manufacturing, North American Industry Classification System (NAICS) 332992.

Documents proposing to waive the nonmanufacturer rule for Small Arms Ammunition Manufacturing was published in the **Federal Register** June 7, 2002 (66 FR 39311) and on August 2, 2002 (66 FR 50383). No comments were received.

Linda G. Williams,

Associate Administrator for Government Contracting.

[FR Doc. 02-22649 Filed 9-5-02; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02-ASO-8]

Establishment of Class E Airspace; Poplarville, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E5 airspace at Poplarville, MS. A VHF Omni Range/Distance Measuring Equipment (VOR/DME)—A, Standard Instrument Approach Procedure (SIAP), has been developed for Oreck Airport, Poplarville, MS. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rules (IFR) operations at Oreck Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, October 3, 2002.

FOR FURTHER INFORMATION CONTACT:

Walter R. Cochran, manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

History

On July 23, 2002, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E5 airspace at Poplarville, MS, (67 FR 48066), to provide adequate controlled airspace to contain IFR operations at the Oreck Airport. Class E airspace designations for airspace areas extending upward

from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E5 designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E5 airspace at Poplarville, MS.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority. 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points,

dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E5 airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ASO MS E5 Poplarville, MS [NEW]

Oreck Airport, MS

(Lat. 30°46'38" N, long. 89°43'30" W)

That airspace extending upward from 700 feet above the surface within a 6.4 mile—radius of Oreck Airport; excluding that airspace within the Bogalusa, LA, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on August 29, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02-22751 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-02-102]

Drawbridge Operation Regulations: Saugatuck River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metro North Saga Bridge, mile 1.1, across the Saugatuck River in Connecticut. This temporary deviation will allow the bridge to remain in the closed position from 1 a.m. on September 7, 2002 through 8 p.m. on September 8, 2002. This temporary deviation is necessary to facilitate structural repairs at the bridge.

DATES: This deviation is effective from September 7, 2002 through September 8, 2002.

FOR FURTHER INFORMATION CONTACT:

Joseph Schmied, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Metro North Saga Bridge has a vertical clearance in the closed position of 13 feet at mean high water and 20 feet at mean low water. The existing regulations are listed at 33 CFR 117.221.

The bridge owner, Metro North, requested a temporary deviation from the drawbridge operating regulations to facilitate structural maintenance,

replacement of timber rail stringers and structural steel, at the bridge. The bridge must remain closed during these structural repairs.

The bridge opening records indicate this bridge has not received any requests to open during the requested closure time during the past four years; therefore, no navigational impacts to the marine transit system are expected.

This deviation from the drawbridge operation regulations will allow the bridge to remain in the closed position from 1 a.m. on September 7, 2002 through 8 p.m. on September 8, 2002.

This deviation from the drawbridge operation regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: August 26, 2002.

V.S. Crea,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 02-22736 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

42 CFR Part 51d

RIN 0930-AA09

Mental Health and Substance Abuse Emergency Response Criteria

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Final rule.

SUMMARY: Section 3102 of the Children's Health Act of 2000, Pub. L. 106-310, amends section 501 of the Public Health Service (PHS) Act (42 U.S.C. 290aa) to add a new subsection (m) entitled "Emergency Response." This newly enacted subsection 501(m) authorizes the Secretary to use up to, but no more than, 2.5% of all amounts appropriated under Title V of the PHS Act, other than those appropriated under Part C, in each fiscal year to make "noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities."

Because Congress believed the Secretary needed the ability to respond to emergencies, it exempted any grants, contracts, or cooperative agreements authorized under this section from the

peer review process. See section 501(m)(1) of the PHS Act. Instead, the Secretary is to use an objective review process by establishing objective criteria to review applications for funds under this authority.

DATES: This Final Rule will become effective on September 6, 2002.

FOR FURTHER INFORMATION CONTACT:

Joseph D. Faha, Substance Abuse and Mental Health Services Administration (SAMHSA), (301) 443-7017.

SUPPLEMENTARY INFORMATION:

Background

In the *Federal Register* of October 11, 2001 (66 FR 51873), the Department of Health and Human Services (the Department) published an Interim Final Rule to implement the new emergency grant program under its recent reauthorization legislation, which was signed into law on October 17, 2000, Pub. L. 106-310. Section 3102 of this law adds a new subsection, entitled "Emergency Response" to section 501 of the Public Health Service (PHS) Act. This newly enacted subsection enables the Secretary to use a small portion of funds appropriated each fiscal year to make "noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities." The Interim Final Rule established procedures by which the Department may provide these funds.

Comments and Agency Response

In response to the October 11, 2001, Interim Final Rule, SAMHSA received two comments. Both commenters believe that the emergency criteria are too narrow in requiring that the emergency must have a "sudden, rapid onset and definite conclusion." They point out, for example, that because the health needs of their community resulting from asbestos-related diseases "unfolded as an ongoing process of discovering long term latent health effects that occurred in the past, the precipitating event would not fit the criteria." The Secretary has purposely included the criteria of "sudden, rapid onset and definite conclusion" to be consistent with the definition of an emergency in the regulations of the Federal Emergency Management Agency and declines to modify the criteria.

The commenters also noted the importance of standardizing data collection from funded programs, in order to develop response models that fit each type of disaster, and to provide for meaningful evaluations of overall effectiveness and meta analysis. The

Secretary responds that the primary purpose of the Emergency Response grants is to provide substance abuse and mental health services in the event of an emergency, and that focusing on data collection efforts to develop response models, evaluation, and meta analysis is outside the purview of this primary goal.

Technical Corrections

We are making a few minor technical changes to the rule. We find that these minor technical changes do not rise to the level of substantive change and thus comment is unnecessary. See 5 U.S.C. 553(b)(3)(B).

First, the term "Presidential disaster declaration" is defined in § 51d.2, but is not used in the regulation. We are deleting this definition because it is unnecessary.

Second, the Interim Final Rule, at § 51d.8, mistakenly indicated that 42 CFR part 50, subpart D—Public Health Service grant appeals procedure applies to the Emergency Grant awards. However, the Department amended this regulation to remove SAMHSA from the list of agencies to which these informal appeal procedures apply. Aggrieved grantees have direct access to the Departmental Appeals Board and that Board's original jurisdiction. See 63 FR 66062 (Dec. 1, 1998). We are deleting reference to this section to avoid any confusion.

Finally, the Interim Final Rule mistakenly indicated that 45 CFR part 75—Informal grant appeals procedures applies to the Emergency Grant awards. This provision has been deleted from the Code of Federal Regulations, as obsolete and ineffective. See 62 FR 38217 (July 17, 1997). We are deleting reference to this section to avoid any confusion.

Executive Order 12866: Economic Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety distributive and equity effects). As noted in the October 11, 2001, Interim Final Rule, we have determined that the rule is not a "significant regulatory action" under section 3(f) of the Executive Order. This rule does not have an annual effect on the economy of \$100 million or more, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements,

grants, user fees, or loan programs or the rights and obligations of recipients thereof, or raise novel legal or policy issues. Therefore, this interim final rule does not require an assessment of the potential costs and benefits under section 6(a)(3) of that Order and thus has been exempted from review by the Office of Management and Budget under that Order.

Regulatory Flexibility

The Regulatory Flexibility Act (5 U.S.C. chapter 6) requires that regulatory actions be analyzed to determine whether they will have a significant impact on a substantial number of small entities. As noted in the October 11, 2001, Interim Final Rule, we have determined that this is not a "major" rule under the Regulatory Flexibility Act of 1980, and that it will not have an effect on the States or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates

The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. As noted in the October 11, 2001, Interim Final Rule, this rule contains no Federal mandates for State, tribal, or local governments or for the private sector.

Executive Order 13132: Federalism Implications

Executive Order 13132, Federalism, requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. As noted in the October 11, 2001, Interim Final Rule, we reviewed the rule as required under the Order and determined that it does not have any federalism implications. This rule will not have an effect on the States or on the distribution of power and responsibilities among the various levels of government. This having been stated, States support the flexibility that this regulation offers them in seeking Federal assistance for substance abuse and/or mental health emergencies that may occur in their borders.

Paperwork Reduction Act of 1995

The information collection provisions in this final rule have been approved under OMB control number 0930-0229. This approval expires April 30, 2005.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires us to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

As noted in the October 11, 2001, Interim Final Rule, this proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175.

List of Subjects in 42 CFR Part 51d

Administrative practice and procedure, Disaster assistance, Drug abuse, Emergency medical services, Grant programs-health, Health facilities, Mental health programs, Privacy, Reporting and recordkeeping requirements.

Charles G. Curie,

Administrator, Substance Abuse and Mental Health Services Administration.

Dated: August 23, 2002.

Tommy G. Thompson,

Secretary.

For the reasons stated above, the Department of Health and Human Services amends Part 51d of Subchapter D of Title 42 CFR as follows:

PART 51d—[AMENDED]

1. The authority citation for part 51d continues to read as follows:

Authority: 42 U.S.C. 290aa(m).

§ 51d.2 [Amended]

2. Amend § 51d.2 by removing the definition of "presidential disaster declaration."

§ 51d.8 [Amended]

3. Amend § 51d.8 by removing the entry for "42 CFR part 50, subpart D—Public Health grant appeal procedure."

[FR Doc. 02-22601 Filed 9-5-02; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 010926236-2199-02; I.D. 081202B]

RIN 0648-AP63

Sea Turtle Conservation; Restrictions to Fishing Activities

AGENCY: National Marine Fisheries Service (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA Fisheries is closing the waters of Pamlico Sound, NC, to fishing with gillnets with a mesh size larger than 4 1/4 inch (10.8 cm) stretched mesh ("large-mesh gillnet"), on a seasonal basis, from September 1 through December 15 each year, to protect migrating sea turtles. The closed area includes all inshore waters of Pamlico Sound south of 35°46.3' N. lat., north of 35°00' N. lat., and east of 76°30' W. long.

DATES: This final rule is effective on September 3, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this final rule may be obtained by writing to the Chief, Endangered Species Division, Office of Protected Resources, NOAA Fisheries, 1315 East-West Highway, Silver Spring, MD 20910. Requests may also be sent via fax to 301-713-0376, Attn: Chief, Endangered Species Division, Office of Protected Resources.

FOR FURTHER INFORMATION CONTACT: David M. Bernhart (phone, 727-570-5312; fax 727-570-5517; e-mail, David.Bernhart@noaa.gov), or Barbara A. Schroeder (phone, 301-713-1401; fax 301-713-0376; e-mail, Barbara.Schroeder@noaa.gov).

SUPPLEMENTARY INFORMATION: All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, taking sea turtles—even

incidentally--is prohibited, with exceptions for threatened species identified in 50 CFR 223.206. The incidental take of endangered species may be authorized only by an incidental take statement or an incidental take permit issued pursuant to section 7 or 10 of the ESA.

Background

On September 27, 2001, NOAA Fisheries implemented an interim final rule (66 FR 50350, October 3, 2001) closing the waters of Pamlico Sound, NC, to fishing with gillnets with a mesh size larger than 4 1/4 inch (10.8 cm) stretched mesh. The closure was in effect from September 28 to December 15, 2001. The interim final rule, which expires on September 14, 2002, was published with the intent of issuing a permanent rule to go into effect September 15, 2002. Two comments were received on the interim final rule and are addressed under section Response to Comments.

Concurrent with implementing the interim final rule, NOAA Fisheries issued an Incidental Take Permit (ITP) pursuant to section 10 of the ESA to North Carolina Division of Marine Fisheries (NCDMF). The ITP authorized take of listed sea turtles as a result of the small- and large-mesh shallow water gillnet fisheries operating within designated areas of Pamlico Sound. The ITP required fishermen deploying gillnets in the shallow waters of southeastern Pamlico Sound to obtain permits from NCDMF. The ITP required a maximum limit of 2,000 yards (1,828 m) of net, a mandatory weekly report on sea turtle interactions, mandatory observer coverage, and fishery closures if the incidental take level specified in the ITP was exceeded. A limited amount of deep-water, large-mesh gillnet gear testing was also allowed under the ITP. Estimated levels of sea turtle interactions remained below thresholds specified in the ITP and, therefore, additional closures were not required during the 2001 season (Gearhart 2002).

A detailed summary relating the events leading up to the promulgation of the interim final rule and NCDMF ITP can be found in the background section of the interim final rule (66 FR 50350, October 3, 2001).

Description of the Fishery

The Pamlico Sound large-mesh gillnet fishery can be divided into two components shallow-water and deep-water, which are distinguished by their fishing areas, seasons, tactics, participants, and vessel characteristics.

The deep-water fishery operates from September through December with

fishermen setting nets along a slope adjacent to the main basin of Pamlico Sound. Fishing depths in this area range from 10 to 20 feet (3.0 to 6.1 m). Vessels are typical ocean sink gillnet boats ranging from 25 to 45 feet (7.6 to 13.7 m) in length. Each vessel is operated by a two-man crew. Each vessel sets between 2,000 yards (1,828 m) and 10,000 yards (9,140 m) of large-mesh, most often 5.5 to 6.5 inch (14.0 to 16.5 cm), gillnet, which are soaked for up to 3 days and retrieved with the aid of net reels. Net depths range from 8 to 12 feet (2.4 m to 3.7 m) with tie-downs 2 to 4 feet (.61 to 1.2 m) long attached to the float and lead lines at 50 foot (15.2 m) intervals along the net. Tie-downs are used in this fishery to produce a bag or pocket of webbing, which is believed to increase the catch efficiency for bottom-dwelling flounder. There were 25 active participants in this fishery during the 2000 fishing season, with most trips originating from Engelhard or Swan Quarter, N.C., and a small portion leaving from Hatteras, N.C. The deep-water, large-mesh gillnet fishery was closed in 2001 as a result of the NOAA Fisheries interim final rule. This fishery has grown within the past 10 years from what was initially only a few fishermen setting a few thousand yards of gillnet. Effort has steadily increased with more participants fishing more gear each year. During the past several years, gillnets have surpassed pound nets as the dominant gear for flounder in North Carolina's estuarine waters. Pound nets had long been the traditional means for harvesting flounder in North Carolina waters.

Monitoring of the deep-water fishery during the 2000 fishing season consisted of 13.1 percent observer coverage with 35 trips observed. Fourteen sea turtle interactions were observed involving four Kemp's ridleys, two greens, and eight loggerheads. Eight of these turtles were released alive; six were dead.

The shallow-water fishery operates from April through December in areas next to the barrier islands in Pamlico Sound, extending both north and southwest along the Outer Banks. Most fishing in these areas occurs in depths of less than 3 feet (0.9 m). Vessels are usually open skiffs ranging from 15 to 25 feet (4.6 to 7.6 m) in length with one- or two-man crews. Each fisherman typically sets 500 to 2000 yards (457 to 1,828 m) of large-mesh (5.5 to 7.0 inch (14.0 to 17.8 cm)) gillnet. The nets are soaked overnight and retrieved by hand. Tie-downs are not used in this fishery, but net depths range from 6 to 11 feet (1.8 to 3.4 m), with sets occurring in depths less than 3 feet (0.9 m). This combination of water depth and net

depth provides the same bag effect as the tie-down in the deep-water fishery. There were 95 permitted, active participants during the 2001 fishing season. The shallow-water gillnet fishery is considered to be more traditional than the deep-water gillnet fishery.

Monitoring during the 2001 fishing season consisted of 9 percent observer coverage of the shallow-water, large-mesh fishery, with 131 trips observed. During these trips, five sea turtle interactions were observed, of which four were green turtles and one was a hawksbill. Three green turtles and the hawksbill were released alive; one green turtle was dead. The small mesh fishery was observed on 8.4 percent of the trips prior to November 1 and 20 percent of the trips after that. Coverage was increased in November because fishermen no longer were required to tend their nets and the possibility of a lethal turtle take was greater. No turtle interactions were documented in the small mesh fishery.

NCDMF's Section 10 ITP

NOAA Fisheries issued the first ITP to NCDMF for the 2000 fall fishing season only. The exceeding of the authorized incidental take identified in the ITP resulted in a closure of the fishery in October 2000. Although section 10 ITPs are generally issued for multi-year periods, NOAA Fisheries and NCDMF believed that the newness of the fishery, the apparent high levels of turtle interaction, and the paucity of observer data for management decisions justified a single-year permit in 2000 to allow NCDMF to gather important information about bycatch issues in the fishery. NOAA Fisheries, in issuing the ITP, considered the effects of the fishery on listed species, pursuant to sections 7(a)(2) and 7(b) of the ESA. The resulting biological opinion concluded that, as a 1-year event, the issuance of the ITP and the fishery were not likely to jeopardize the continued existence of any listed species of sea turtle. The opinion did acknowledge, however, that additional future permits might be sought by NCDMF for large-mesh gillnetting in Pamlico Sound, perhaps modified based on the outcome of the 2000 permit. On September 27, 2001, NOAA Fisheries issued a second ITP to the NCDMF with similar review requirements. The ITP was again valid for 1 year. On July 18, 2002, NCDMF submitted an application for a 3-year ITP to reopen the shallow water areas under similar requirements as well as add the management of the shallow water fishery operating in an area of the mainland Hyde and Pamlico Counties

(67 FR 49009, July 29, 2002). The 3-year ITP would allow for the gathering of substantial additional information on the fishery and its interactions with sea turtles. The ITP would allow portions of the fishery to operate while requiring observer coverage to document sea turtle interactions and the conditions in which they occur. At the end of the ITP 3-year term, NCDMF may have substantial information to propose a means of reopening the fishery with management measures that would provide sufficient protection to sea turtles. In such an event, NOAA Fisheries would consider rescinding this closure rule and issuing an ITP with the proposed measures in its place.

Closure of Large-Mesh Gillnet Fishing in Pamlico Sound

Through this final rule, NOAA Fisheries is closing the waters of Pamlico Sound NC, on an annual basis, to fishing with gillnets with a mesh size larger than 4 1/4 inches (10.8 cm) stretched mesh, from September 1 through December 15. This closure date is earlier than that of the previous interim final rule, based upon discussions with and recommendations by NCDMF regarding the observed times of high gillnet effort and high turtle occurrence in Pamlico Sound. In 2000 and 2001, 88 percent of the sea turtle interactions in shallow water occurred during the first three weeks of the season. The closed area includes all inshore waters of Pamlico Sound south of 35°46.3' N. lat. (the south side of Oregon Inlet), north of 35°00' N. lat. (the south end of Portsmouth Island), and east of 76°30' W. long. (a line of longitude which crosses the mouths of the Neuse River, Bay River, and Pamlico River). The Outer Banks and the COLREGS line form the seaward boundary of the closed area. The closed area includes all contiguous tidal waters to Pamlico Sound, within the stated boundaries. The large-mesh gillnet fishery in Pamlico Sound has been shown to take, including to capture and kill, numerous endangered and threatened sea turtles during their fall migration. NOAA Fisheries is taking this action to prevent further takes of listed species in this fishery.

Response to Comments

NOAA Fisheries requested comments on the interim final rule in anticipation of issuing this final rule. Two comments were received during the comment period.

Comment 1: The Ocean Conservancy commented that it supports a permanent, seasonal, September through December closure of all Pamlico

Sound waters to large-mesh gillnets. It also commented that geographic and seasonal closures do not go far enough to protect listed sea turtles.

Response: We believe that stranding and observer data indicate that the rule covers a place and time in which the large-mesh gillnet fishery has a potentially detrimental impact upon listed sea turtles. If additional information or later events demonstrate a potential need for further restrictions, NOAA Fisheries will analyze the circumstances and act to provide the measures necessary to protect the sea turtles as required by the ESA.

Comment 2: A North Carolina resident commented that there are too many turtles, particularly loggerheads, in Pamlico Sound and that the measures to protect sea turtles are unwarranted and are burdensome to the fishing community.

Response: All species of sea turtles in U.S. waters are listed under the ESA because their populations have declined and protective measures are necessary in order for these species to recover. We cautiously anticipate that there are more loggerhead turtles in Pamlico Sound as a result of the use of such protective measures as the use of turtle excluder devices in shrimp trawl nets and others. However, the species is not recovered and additional measures are necessary to reduce interactions with fishing gear.

Classification

NOAA Fisheries prepared an Environmental Assessment (EA) for this final rule and concluded that these regulations and issuance of the permit would neither pose a significant adverse environmental impact nor have a significant effect on the quality of the human environment.

The actions implemented by this final rule are expected to impact approximately 95 large-mesh, gillnet vessel owners and operators. Assuming that a shallow-water fishery will be managed by NCDMF and many of these vessels will participate in the shallow-water fishery, NOAA Fisheries anticipates, under a worst-case scenario, that 25 large-mesh, deep-water boats will not participate in the fishery in Pamlico Sound. The anticipated loss of revenue could be \$10,000 to \$20,000 per vessel per year, depending on fish prices, for a total loss to the deep-water fishery operations of \$250,000 to \$500,000. These vessels, however, are the largest in the fishery and have the greatest number of alternative fisheries, as they are essentially ocean-gillnet vessels. They are also the most recent entrants into the fishery and did not operate in Pamlico Sound in the fall of

2001. Many of these operations may have switched gear to the more traditional pound net operations or moved offshore. Thus, the revenue loss anticipated for these large mesh deep water operations, under a worst-case scenario, is likely an overestimate. The shallow-water vessels, on the other hand, are considered more traditional to the fishery, they are generally smaller, and many of them cannot safely work outside the sheltered waters of the Sound. The primary effect of this final rule will be a redistribution of catch from deep-water gillnet fishermen to shallow-water and small-mesh gillnet fishermen and to pound net fishermen. The overall fishing effort targeting southern flounder in Pamlico Sound is very high and capable of fully exploiting the resource. In 2000, gillnet landings exceeded the previous year's levels, halfway through the season, despite NCDMF's closure of the primary fishing grounds to gillnetting with gear greater than 5-inch (12.7-cm) mesh. In 2001, the landings of flounder by gillnet dropped significantly from those in previous years, but the landings by pound net, which had been in decline for a number of years, rebounded dramatically to high levels.

This final rule does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for NOAA Fisheries has determined that there is good cause under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. Delaying this action would be contrary to the public interest because large-mesh gillnet fishing is presently allowed without restriction throughout Pamlico Sound. Allowing continued large-mesh gillnet fishing in the deep water areas of Pamlico Sound would likely result in a high level of sea turtle take and mortality. The NCDMF observer program has documented that sea turtle interactions occur at a high rate in September and around the inlets of Pamlico Sound. Without action, large-mesh gillnet fishing effort is expected to increase greatly in September, as changing water temperatures cause flounder to move through Pamlico Sound. Sea turtles apparently respond similarly to the fall weather in Pamlico Sound, increasing their vulnerability to being captured and killed as the fishing effort also peaks. In 2000, strandings in North Carolina's coastal waters reached a new record level of 838 turtles. In 2001, concurrent with a prohibition on the use of large mesh gillnets in the

deep water areas and around the inlets of Pamlico Sound, strandings decreased 67 percent from the 2000 level. The effectiveness of prohibiting large-mesh gillnet fishing in the deep water in reducing sea turtle mortality has been demonstrated. The sea turtle mortality resulting from the failure to implement a prohibition on fishing with large-mesh gillnets in deep water would seriously threaten sea turtle populations. This final rule is intended to address a major source of fishing-related sea turtle mortality.

In keeping with the intent of Executive Order 13132 to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, NOAA Fisheries has conferred with the State of North Carolina regarding the need for NOAA Fisheries to implement a closure to protect listed sea turtles. NOAA Fisheries is working with NCDMF on the issuance of an ESA section 10(a)(1)(B) permit, which would create a partial exemption to the closure in this action. NOAA Fisheries intends to continue to consult with the State of North Carolina during the implementation of this final rule and regarding NCDMF's management of state water fisheries bycatch of sea turtles.

List of Subjects in 50 CFR Part 223

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

Dated: August 30, 2002.

William T. Hogarth, Ph.D.

Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended to read as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 223.206, revise paragraph (d)(7) to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(7) Restrictions applicable to gillnet fisheries in North Carolina. No person may fish with gillnet fishing gear which has a stretched mesh size larger than 4 1/4 inches (10.8 cm), annually from September 1 through December 15, in the inshore waters of Pamlico Sound, North Carolina, and all contiguous tidal

waters, bounded on the north by 35°46.3' N. lat., on the south by 35°00' N. lat., and on the west by 76°30' W. lat.

[FR Doc. 02-22691 Filed 9-3-02; 11:14 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 083002D]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Increase of Atlantic bluefin tuna General category daily retention limit.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily catch limit should be adjusted to two large medium or giant BFT per vessel in order to allow for maximum utilization of the General category September time-period subquota.

DATES: Effective September 1, 2002, until September 14, 2002.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories, and General category effort controls (including time-period subquotas and restricted fishing days (RFDs)) are specified annually under 50 CFR 635.23(a) and 635.27(a). The 2002 General category effort controls were proposed on July 27, 2002 (67 FR 43266).

Adjustment of Daily Retention Limits

Under § 635.23 (a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow

for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that an increase of the daily retention limit for the first half of September is appropriate and necessary to allow full use of the September subquota. Therefore, NMFS adjusts the daily retention limit for September 1 through September 14 to two large medium or giant BFT per vessel.

The intent of this adjustment is to allow for maximum utilization of the General category subquotas for the September fishing period (specified under 50 CFR 635.27(a)) by General category participants in order to help achieve optimum yield in the General category fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

While catch rates have continued to be low so far this season, NMFS recognizes that they may increase. If catch rates remain depressed, NMFS may increase the daily retention limits and/or waive some or all of the previously scheduled RFDs. The RFD schedule will be announced with the publication of the final initial 2002 BFT quota specifications and General category effort controls. Until these specifications have been announced, no RFDs have been implemented.

Classification

This action is taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2002.

Theophilus R. Brainerd,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-22666 Filed 8-30-02; 4:42 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 083002A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the C season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 30, 2002, until 1200 hrs, A.l.t., October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Within any fishing year, underage or overage of a seasonal allowance may be added to or subtracted from subsequent seasonal allowances in a manner to be determined by the Regional Administrator, Alaska Region, NMFS, provided that the sum of the revised seasonal allowances does not exceed 30 percent of the annual TAC apportionment for the Central and Western Regulatory Areas in the GOA (§ 679.20(a)(5)(ii)(C)). For 2002, 30 percent of the annual TAC for the Central and Western Regulatory Areas is

15,187 mt. For 2002, the Regional Administrator has determined that within each area for which a seasonal allowance is established, any overage or underage of harvest from the previous season(s) shall be subtracted from or added to the seasonal allowance of the following season provided that the resulting sum of seasonal allowances in the Central and Western Regulatory Areas does not exceed 15,187 mt in any single season. The C season allowance of the pollock TAC in Statistical Area 610 of the GOA is 5,949 metric tons (mt) as established by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002 and 67 FR 34860, May 16, 2002). The B season allowance in Statistical Area 610 was exceeded by 271 mt, therefore the Regional Administrator, in accordance with § 679.20(a)(5)(ii)(C), is reducing the C season pollock TAC in Statistical Area 610 by 271 mt to 5,678 mt.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the C season allowance of the pollock TAC in Statistical Area 610 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,628 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting

directed fishing for pollock in Statistical Area 610 of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The Assistant Administrator for Fisheries, NOAA, also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2002.

Theophilus R. Brainerd,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 02-22667 Filed 8-30-02; 4:42 pm]

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Proposed Rules

Federal Register

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Friday, September 6, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

[Docket No. AO-368-A29; DA-01-06]

Milk in the Pacific Northwest Marketing Area; Tentative Decision on Proposed Amendments and Opportunity To File Written Exceptions to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This tentative decision adopts, on an interim final and emergency basis, provisions that amend certain features of the pooling standards of the Pacific Northwest Federal milk order. Specifically, this tentative decision establishes a cooperative manufacturing plant provision and "system pooling" for cooperative manufacturing plants. Additionally, this decision establishes a standard for the number of days during the month that the milk of a producer would need to be delivered to a pool plant in order for the rest of the milk of that producer to be eligible to be diverted to nonpool plants. A year-round diversion limit of 80 percent of total receipts for pool plants also is established. Public comments on the amendments adopted in this tentative decision are requested. Additionally, this decision requires determining if producers approve the issuance of the amended order on an interim basis.

DATES: Comments must be submitted on or before November 5, 2002.

ADDRESSES: Comments (6 copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250. Reference should be made to the title of action and docket number.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs,

Stop 0231—Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 690-1366, e-mail address: gino.tosi@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Department of Agriculture (Department) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Department's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$750,000, and a

dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During May 2002, there were 972 producers pooled on, and 86 handlers regulated by, the Pacific Northwest order. Based on these criteria, 596 producers and 49 handlers would be considered small businesses. The adoption of the proposed pooling standards service to revise established criteria that determine those producers, producer milk, and plants that have a reasonable association with, and are consistently serving the fluid needs of, the Pacific Northwest milk marketing area. Criteria for pooling milk are established on the basis of performance standards that are considered adequate to meet the Class I fluid needs of the market and that determine those that are eligible to share in the revenue which arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The criteria established are applied in an equal fashion to both large and small businesses. Therefore, the proposed amendments will not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these proposed amendments would have no impact on reporting, record keeping, or other compliance requirements because they would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements would be necessary.

This tentative decision does not require additional information

collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information, which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports from all handlers does not significantly disadvantage any handler that is smaller than the industry average.

No other burdens are expected to fall on the dairy industry as a result of overlapping Federal rules. The rulemaking proceeding does not duplicate, overlap, or conflict with any existing Federal rules.

Prior document in this proceeding: *Notice of Hearing*: Issued November 14, 2001; published November 19, 2001 (66 FR 57889).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this tentative final decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Pacific Northwest marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, November 5, 2002. Six (6) copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Seattle, Washington, on December 4, 2001, pursuant to a notice of hearing issued November 14, 2001 (66 FR 57889).

The material issues on the record of hearing relate to:

1. Establishing a touch-base provision and year-round diversion limits for producer milk.
2. Establishing a cooperative pool manufacturing plant provision and "system" pooling for cooperative manufacturing plants.

3. Determining if emergency marketing conditions exist that would warrant the omission of a recommended decision and the opportunity to file written exceptions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Standards for Producer Milk—the Touch Base Standard

A proposal seeking to change certain standards and features of the *Producer milk* provision of the order should be adopted immediately. The changes include: (1) Establishing a year-round standard for the number of days in each month that a dairy farmer's milk production needs to be delivered to a pool plant in order for the rest of the milk of that dairy farmer to be eligible for diversion to nonpool plants. This standard is often referred to as a "touch-base" provision. A 3-day touch-base standard is adopted in this decision. (2) Setting a limit on the amount of milk that can be diverted from pool plants to nonpool plants in each month of the year. Currently, a diversion limit of 99 percent is applicable in each of the months of March through August, while a diversion limit of 80 percent is applicable for each of the months of September through February. The adopted year-round diversion limit is 80 percent of all milk receipts, including diversions, and continues the current diversion limits that were adjusted by the Market Administrator. (3) Providing authority to the Market Administrator to adjust the touch-base standard.

Proposal 2, offered by Northwest Milk Marketing Federation (NMMF), Northwest Dairy Association (NDA), and the Tillamook County Creamery Association (TCCA), seeks to modify the order's pooling standards by establishing a 6-day touch-base standard during the month in order for the rest of the milk of a dairy farmer to be eligible to be diverted to nonpool plants and by establishing an 80 percent year-round limit on the amount of milk received by a pool plant that can be diverted to nonpool plants. NMMF, NDA, and TCCA are organizations owned by dairy-farmer members that supply a significant portion of the milk needs of the Pacific Northwest marketing area and whose milk is pooled on the Pacific Northwest order.

NDA, a proponent of Proposal 2, testified that pooling standards must be changed in order to prevent what they described as "artificial" pooling or "pool loading" that has been occurring

in the Pacific Northwest order since the implementation of Federal order reform. The NDA witness noted that when milk is pooled on the order but never physically received, service to the Class I market is not demonstrated. To allow the pooling of milk which does not provide service to the Class I needs of the market only lowers returns to dairy farmers whose milk is actually supplying the local Class I market. The witness asserted that this occurs because the order's pooling standards are inadequate.

According to the NDA witness, pooling provisions that were once applicable in Federal orders more accurately identified the milk of producers serving the Class I market. These provisions included a touch-base standard that specified the minimum number of days during the month that a dairy farmer's milk needed to be received at a pool plant in order to be eligible to divert to nonpool plants the rest of the milk of that dairy farmer. In addition, the witness noted that the "dairy farmers for other markets" provision, that was applicable prior to order reform, provided that a dairy farmer would not be considered a producer on the order unless all of the farmer's milk was pooled on the order during the month. Also, the witness noted, milk was valued and priced by its relative location to the market prior to order reform. Milk farther from plants in the marketing area would have a lower value than milk located nearer to plants located in the marketing area, stressed the witness.

The NDA witness testified that provisions prior to Federal order reform deterred milk that did not serve the Order's Class I market from being pooled on the Pacific Northwest order. The witness explained that milk located outside of the marketing area and pooled on the order received the Pacific Northwest blend price minus the applicable location adjustment specified in the order. This measure, the witness said, made it unprofitable for milk located far from the marketing area to be pooled on the Pacific Northwest order. However, the witness emphasized that Federal order reform adopted a Class I price surface that does not provide for location adjustments in determining a relative value for milk to the market. According to the witness, the newly adopted Class I price surface establishes fixed values for milk regardless of its use for fluid or manufactured products. The witness characterized that this change effectively created a "backward incentive" to move milk from one order's bottling plant to a manufacturing

plant located farther away in another marketing order.

The NDA witness referred to a Cornell University economic model that was used in formulating the current Class I price surface. The model, according to the witness, produced a price surface map that valued milk in the east higher than milk in the west, inferring that milk should move from west to east. The witness asserted that when establishing the new Class I price surface, the Department did not take into account the variable price surface used by the model for manufactured products. The witness noted that while the Class I differential at Salt Lake City, Utah, is the same as in Seattle, Washington (\$1.90 per hundredweight), the Pacific Northwest order blend price is often higher than the Western order blend price. According to the witness, the combined effect of fixed Class I differential values and blend price differences causes milk from Utah to move west to the Pacific Northwest, instead of moving east as predicted in the Cornell model.

The witness concluded that this movement of milk has resulted in disorderly market conditions in the Pacific Northwest and Western orders because the price surface provides an inappropriate incentive to move milk to manufacturing plants in the Pacific Northwest order where a higher Class I value prevails, rather than to bottling plants in the Western order where a lower Class I value prevails. The witness testified that the pooling provisions of the Pacific Northwest order need revision to correct disorderly market conditions.

NMMF's witness, testifying in support of Proposal 2, stated that the proposal is designed to correct unintended consequences generated by Federal order reform regarding the manner in which the producer location value of milk is determined. The witness testified that prior to order reform, location adjustments also acted as an effective means of identifying the producers who consistently served the Class I needs of the market. The witness testified that Federal order reform also established a new Class I price structure that reflected supply and demand conditions for fluid milk in every county of the United States. The witness asserted that this new structure uses the same Class I pricing locations to adjust pool draws on all milk regardless of how that milk is utilized.

According to the NMMF witness, under the new pricing system, milk that is diverted from plants in the marketing area and delivered hundreds of miles away can be valued at the same price as

milk at the plant from which the milk was diverted. Value is then adjusted, the witness said, by differences in the level of the Class I differentials where the milk is actually delivered. According to the witness, this demonstrates a lack of economic consistency.

The NMMF witness also testified that millions of dollars have been transferred from dairy farmers who actually supply the fluid needs of the Pacific Northwest order to dairy farmers located in Southern Idaho and Utah who do not supply the local Class I market. Also, data was presented by the witness to demonstrate that when the milk of producers distant to the market is pooled on the Pacific Northwest order but never physically received at a Pacific Northwest pool plant, the milk of those distant producers receives a share of the Class I proceeds without the producers ever actually supplying milk to meet the Class I needs of the market.

According to the NMMF witness, the 80 percent diversion limit recommended in Proposal 2 would permanently continue the Market Administrator's February 2001 temporary revision to the marketing order. According to the witness, the 80 percent diversion limit has been operating well and should become the order's adopted standard for producer milk.

The NMMF witness also spoke on the merits of instituting a 6-day touch-base standard. The witness was of the opinion that producer milk standards should be linked to the order's supply plant performance standard of 20 percent. According to the witness, 6 days of a dairy farmer's milk production per month is equal to 20 percent of monthly production and is consistent with the 20 percent performance standard applicable for pool supply plants.

Dairy Farmers of America (DFA), a supporter of Proposal 2, testified about changes in the marketplace resulting from the new Class I price surface implemented under Federal order reform. It was DFA's opinion that the pooling of milk not serving the Class I market is inconsistent with Federal order policy. Returns to producers who regularly supply the Class I market are unnecessarily reduced when milk that does not service the Class I market is pooled, said the witness.

The DFA witness also testified that milk not actually supplying the Class I needs of the market but sharing in the revenue generated from fluid milk sales is an indicator of faulty pooling provisions. The witness asserted that if the current pooling standards are not amended, local dairy farmers who are

actually supplying the local Class I market will continue to receive lower returns.

The DFA witness testified that the Pacific Northwest order's current diversion limit standard of 99 percent for certain months is inadequate because of the potential volume of milk that could be pooled on the order. According to the witness, it is this shortcoming of the current pooling provisions that has allowed milk which performs no reasonable service in meeting fluid milk demands to be pooled on the Pacific Northwest order. In this regard, DFA thought it was appropriate to set a limit on the amount of producer milk that pool plants can divert to nonpool plants consistent with the Market Administrator's temporary revision. The DFA witness indicated that a year-round diversion limit of 80 percent would be reasonable in light of the marketing area's Class I use of milk. The witness also supported the 6-day touch-base provision of Proposal 2 because it would better identify the milk of those producers that actually serve the Class I needs of the market.

Two Washington State dairy farmers also testified in support of Proposal 2. One dairy farmer asserted that Proposal 2 would correct what the witness described as a loophole in the Pacific Northwest pooling provisions that allows milk which does not serve the fluid market to be pooled on the Pacific Northwest order. The witness maintained that current provisions are contributing to the loss of millions of dollars to Washington State dairy farmers. The witness also stated that adopting Proposal 2 would provide for restoring the orderly marketing of milk in the Pacific Northwest and promote trust in the Federal milk order program. A second dairy farmer testified that disorderly marketing conditions are demonstrated when the blend price is reduced through what the witness described as manipulation of the order's pooling standards.

2. Standards for Pool Plants— Cooperative Pool Manufacturing Plant

Several amendments to the *Pool plant* provision of the Pacific Northwest order should be adopted immediately. Certain inadequacies and unneeded features of the current *Pool plant* provision are contributing to disorderly marketing conditions and unwarranted erosion of the blend price received by those producers who actually supply milk to satisfy the fluid demands of the Pacific Northwest marketing area. Specifically, the following changes to the *Pool plant* provision should be adopted immediately: (1) Eliminate a supply

plant feature applicable to cooperative supply plants; (2) establish a "cooperative manufacturing plant" provision; and (3) provide for two or more cooperative manufacturing plants to operate as a "system" for the purpose of meeting applicable performance standards.

A cooperative manufacturing plant is a type of pool supply plant and will be defined as a manufacturing plant, owned and operated by a cooperative association or a wholly owned subsidiary, that delivers at least 20 percent of producer-member milk shipments either directly from farms or supply plants owned by the same cooperative association and is located within the marketing area. A cooperative manufacturing plant will have the same performance standards applicable to a supply plant specifying that 20 percent of total milk receipts must be supplied to a pool distributing plant in order to pool all other physical receipts and diversions of milk.

The Pacific Northwest marketing order *Pool plant* provision currently contains a feature applicable for supply plants operated by a cooperative association to include deliveries to distributing plants directly from the farms of their producer members as qualifying shipments for pooling.

Proposal 1, offered by NMMF, NDA, and TCCA seeks to establish a "cooperative manufacturing plant" provision as a type of pool supply plant, and also to provide that two or more cooperative manufacturing plants may operate as a "system" of supply plants for the purpose of meeting pooling performance standards. According to the witnesses, the proposal eliminates the need for the current provision for cooperative associations that operate supply plants.

A witness for NMMF testified that the adoption of a provision providing for a cooperative manufacturing plant as a type of supply plant is predicated on the adoption of a touch-base standard contained in Proposal 2. According to the witness, if a touch-base standard is adopted, certain accommodations for cooperative manufacturing plants should be provided to prevent the inefficient movement of milk. A provision for a "system" of cooperative manufacturing plants should be made, noted the witness, so that the system of plants could qualify to have their combined milk receipts pooled when a single plant of the system meets all of the performance standards for the system of plants. The witness noted that providing this flexibility in the movement of milk will enable cooperative manufacturing plants to

minimize transportation costs while still meeting the established touch-base standard. The witness noted that a similar provision for cooperative manufacturing plants is currently a feature of the Arizona-Las Vegas and Western milk marketing orders and would be beneficial for the Pacific Northwest order.

The NMMF witness predicted that the adoption of a cooperative manufacturing plant provision would encourage all supply plants in the Pacific Northwest to change their pooling status to this new type of pool supply plant because all supply plants in the Pacific Northwest are owned by cooperative associations. According to the witness, the proposed changes contained in Proposals 1 and 2 would serve to deter supply plants located far from the Pacific Northwest marketing area from inappropriately pooling milk on the Pacific Northwest order because these changes eliminate the ability to pool milk that is not physically received at the plants which actually provide milk to satisfy the marketing area's Class I demands.

A witness appearing on behalf of NDA, also a proponent of Proposal 1, agreed with the NMMF witness' conclusion that pooling provisions should ensure that only milk which actually performs in supplying the market's Class I needs would prevent the "artificial" pooling of milk. The witness stressed that NDA does not object to milk located outside of the order that regularly serves the fluid needs of the market from receiving the order's blend price.

The adoption of the proposed cooperative manufacturing plant provision, according to the NDA witness, also would provide producers who regularly serve the fluid needs of the market more flexibility in meeting the touch-base standard contained in Proposal 2. The witness was in agreement with NMMF that the proposal would prevent the inappropriate pooling of milk that is located at plants far from the marketing area that does not actually supply the fluid needs of the market. The NDA witness asserted that these changes to the order would ensure that only milk actually available to meet the market's fluid needs would be pooled.

A witness representing the TCCA also testified in support of Proposal 1. The witness presented an analysis on the loss of income to dairy farmers in Tillamook County, Oregon, due to the pooling of milk on the order that does not actually serve the Class I needs of the market. The impact of inappropriate pooling standards to Pacific Northwest

dairy farmers, according to the witness' calculations, showed an average monthly decrease in revenue of \$755 per farm. The witness testified that the adoption of Proposal 1 would correct the disorderly marketing conditions in the Pacific Northwest order by only allowing milk that actually serves the fluid needs of the market to receive the order's blend price.

The witness representing DFA testified in support of Proposal 1. According to the witness, two primary benefits of the Federal order program are allowing producers to benefit from the orderly marketing of milk and the marketwide distribution of revenue that results mostly from Class I milk sales. Orderly marketing influences milk to move to the highest value use when needed and to clear the market when not used in Class I, noted the witness. The witness testified that marketwide pooling allows qualified producers to equitably share in the returns from the market in a manner that provides incentives for supplying the market in the most efficient manner. The witness insisted that the pooling of milk which does not service the Class I market is inconsistent with Federal order policy.

The DFA witness asserted that Proposal 1 properly addresses the problem associated with what the witness described as the near "open pooling" of milk on the Pacific Northwest order. Specifically, the witness testified that the proposal would establish appropriate pooling performance standards for producer milk and handlers that are consistent with the objectives of the Federal milk order program.

Two members of the Washington State Dairy Federation also testified in support of Proposal 1. One witness indicated that when milk not serving the fluid needs of the Pacific Northwest market is pooled, returns that should be received by producers serving the Class I needs of the market are "siphoned" away. Another witness testified that dairy producers in Washington have lost millions of dollars in revenue as a result of the "loopholes" in the order's pooling provisions. The adoption of Proposal 1 would, according to the witness, make needed changes to the pooling standards and re-establish orderly marketing conditions for the Pacific Northwest marketing area.

All milk marketing orders, including the Pacific Northwest, provide standards for identifying producers and the milk of producers that supply the market's Class I needs. The pooling standards of an order serve to assure that an adequate supply of fluid milk is delivered to the market. Pooling

standards also act to identify the milk of those producers that actually meets this need. Some milk orders have touch-base standards to determine which dairy farmers and the milk of those dairy farmers who perform in the market by delivering a certain amount of production to pool plants. When such standards are met, the milk not needed to meet fluid demands becomes eligible to be diverted to a nonpool plant and be pooled and priced by the order.

It is largely the revenue from Class I sales that provides additional returns to milk being pooled which is reflected in the order's blend price. Accordingly, the Federal order system consistently has stressed actual performance in meeting pooling standards designed to ensure an adequate supply of Class I milk for the market as a condition for receiving the order's blend price.

The pooling standards of an order are designed to identify those producers and the milk of those producers that demonstrate service to the Class I market. A touch-base standard serves to identify the producers and the milk of those producers who actually supply milk to the market in a specified minimum amount. Markets that exhibit a higher percentage of milk in fluid use typically have touch-base standards specifying more frequent physical milk deliveries to pool plants than in markets where Class I use is lower. When a touch-base standard is too low, the potential for disorderly marketing conditions arise on two fronts. First, pool plants are less assured of milk supplies. Second, and most germane to the Pacific Northwest marketing area, the lack of a touch-base standard provides a way for the milk of producers not serving the fluid needs of the market to be pooled on the order while not actually supplying milk to the market's pool plants. This reduces the blend price paid to producers who are actually incurring the costs of supplying the Class I needs of the market.

A significant portion of the testimony received at the hearing placed blame on the current Class I price structure as the root cause of the inappropriate pooling of milk on the Pacific Northwest order. The current price structure was faulted specifically as not providing location adjustments for milk as had been the case prior to the implementation of milk order reform.

Testimony indicated that the lack of location adjustments effectively undermines the pooling standards of the order. The decision to pool milk was once based on the economics of transporting milk—comparing the costs of transporting milk to the benefit of receiving the order's blend price.

Testimony indicates this factor is as important as the pooling standards of the order. Hearing participants were of the opinion that placing a relative value on milk based on its distance from the market provided appropriate pooling discipline and fostered orderly marketing conditions. Some participants indicated disappointment by asserting that the Department did not offer a recommended decision in order reform from which to provide comments on the Class I pricing structure.

The reform of milk orders, contained in the recommended decision (63 FR 4802) and final decision (64 FR 16026), made purposeful changes to the Class I pricing structure. In this regard, a fixed adjustment for Class I milk prices was provided for every county location in the 48 contiguous states to create a national Class I pricing surface for the system of milk marketing orders. Changing this characteristic of the pricing structure ensured handlers that regardless of the marketing order by which regulated, the applicable prices would be the same.

Such change made a more clear distinction between the value milk has at a location from the pooling standards of any individual marketing order. Location adjustments were never a part of the pooling standards of the Pacific Northwest order or any other milk marketing order. Instead, location adjustments were an integral part of the *pricing provisions* of the order. However, it should be noted that location adjustments tended to strengthen the effectiveness of the order's pooling standards. Location adjustments determined the relative value of milk to the market. The pooling standards established the criteria for pooling milk on the order. With the Class I price surface adopted by order reform, more direct reliance is placed on pooling standards to identify the milk that should be pooled on the order.

Pooling provisions of all orders, including the Pacific Northwest, are intended to define appropriate standards for the prevailing marketing conditions in assuring that the marketing area would be supplied with a sufficient supply of milk for fluid use and to identify those producers—and the milk of those producers—that actually service the Class I needs of the market. Taken as a whole, the pooling provisions of milk orders, including the Pacific Northwest order, are contained in the *Pool plant*, *Producer*, and *Producer milk* provisions. The intent of these pooling provisions prior to reform and after reform has not changed.

The issue before the Department is to consider amendments to standards of

the order that currently allow milk to be pooled on the Pacific Northwest order *without* such milk being regularly and consistently supplied to pool plants within the marketing area in order to supply the market's Class I needs. On the basis of the record, the pooling standards of the order need to be reconsidered.

It is the pooling standards of the order that address those producers who are relied upon to supply the Class I needs of the marketing area. The record evidence indicates that milk is being pooled on the Pacific Northwest order which does not demonstrate any reasonable association with the market and which is not actually received at pool plants that supply the Class I demands of the market. Instead, the milk being pooled is physically retained at plant locations located in another marketing area for manufacturing lower valued Class III or Class IV dairy products. This is causing producers who actually supply the market to receive a lower blend price.

On the basis of the record evidence, together with analysis performed by the Department, this decision finds reason to support adopting a 3-day touch-base standard. Analysis was performed using officially noticed Market Administrator data from June 2001 through April 2002. This time period was selected because of the change in Commodity Credit Corporation (CCC) purchase prices for butter and nonfat dry milk that occurred on May 31, 2001, as part of the price support program. This change in the CCC support price purchases, or the "butter-powder tilt," has caused the price gap between Class III and Class IV milk to be significantly reduced. This change in CCC purchase prices has had a noticeable effect on the total value of the marketwide pool for both the Pacific Northwest and Western orders.

A hypothetical blend price was computed for the Pacific Northwest order marketing area, absent the Class III and Class IV milk physically located in areas within the Western Order milk marketing area. Milk from this area had not historically been pooled on the Pacific Northwest. Additionally, a similar blend price was computed for the Western Order that assumed the Class III and Class IV milk pooled on the Pacific Northwest Order would instead be pooled on the Western order. The results indicated that the blend price received by dairy farmers pooled in the Pacific Northwest would increase, while the blend price received by dairy farmers pooled on the Western order would decrease.

Analysis of the newly derived blend price differences was performed to

determine how many days of a dairy farmers' production could seek to be received at a pool plant in the Pacific Northwest so that the costs of shipping milk to the market would not exceed the benefits of being pooled. The results of this analysis ranged from a low of 1 day's milk production in the month of February 2002 to a high of 5 day's milk production in June 2001.

On average the milk of a dairy farmer could be received at a pool plant in the Pacific Northwest order 3 days per month to adequately demonstrate that the milk of a producer is actually providing a reasonable and consistent service in meeting the fluid needs of the marketing area.

Providing a higher touch-base standard requires milk located outside the marketing area to demonstrate its availability to service the Class I needs of the Pacific Northwest marketing area. While this standard should continue to assure an adequate supply of Class I milk, it also will serve as a safeguard against the unwarranted erosion of blend prices caused by the pooling of milk which could not reasonably be determined as bearing the cost associated with serving the fluid needs of the market.

The establishment of a touch-base standard also reinforces the integrity of the order's other performance standards. Together with providing for a cooperative manufacturing plant and their system pooling, reasonable assurance is provided that milk which does not regularly service the fluid needs of the market will not receive the Pacific Northwest order's blend price. Additionally, this decision provides authority for the Market Administrator to adjust the touch-base standard in the same way the order currently provides authority for the Market Administrator to adjust the performance standards for supply plants and diversion limits for all pool plants.

Providing for the diversion of milk is a desirable and needed feature of an order because it facilitates the orderly and efficient disposition of milk not needed for fluid use. When producer milk is not needed by the market for Class I use, some provision should be made for milk to be diverted to nonpool plants for use in manufactured products and to be pooled and priced under the order. However, it is just as necessary to safeguard against excessive milk supplies becoming associated with the market through the diversion process.

Milk diverted to nonpool plants is milk not physically received at a pool plant. However, it is included as a part of the total producer milk receipts of the diverting plant. While diverted milk is

not physically received by the diverting plant, it is nevertheless an integral part of the milk supply of that plant. If such milk is not part of the integral supply of the diverting plant, then that milk should not be associated with the diverting plant and should not be pooled.

A diversion limit establishes the amount of producer milk that may be associated with the integral milk supply of a pool plant. With regard to the pooling issues of the Pacific Northwest order, the record reveals that high diversion limits contributed to the pooling of large volumes of milk on the order that may not have serviced to the Class I market needs. Therefore, lowering the order's diversion limit standard would be appropriate.

Associating more milk than is actually part of the legitimate reserve supply of the diverting plant unnecessarily reduces the potential blend price paid to dairy farmers who service the market's Class I needs. Without reasonable diversion limits, the order's ability to provide for effective performance standards and orderly marketing is weakened.

Diversion limit standards that are too high can open the door for pooling more milk on the market, as seen with the 99 percent diversion limit that had been applicable for the months of March through August prior to the adjustments made by the Market Administrator in February 2001. With respect to the marketing conditions of the Pacific Northwest marketing area evidenced by the record, this decision finds good reason to continue with the diversion limits on producer milk set by the Market Administrator at 80 percent of total receipts as the order's appropriate diversion limit for every month of the year.

Therefore, an 80 percent diversion limit standard for producer milk in each month of the year should be adopted immediately. To the extent that this diversion limit standard may warrant future adjustments, the order already provides the Market Administrator authority to adjust these diversion standards as marketing conditions may warrant.

This decision finds that several changes to the pooling standards contained in the *Producer milk* definition of the order are needed to reinforce the integrity of the other changes made in this decision that affect supply plants. As indicated earlier, the record indicates that the pooling provisions of the Pacific Northwest order are inadequate. This decision finds that the absence of a touch-base standard results in the inability to

adequately and properly identify the milk of those producers who should be pooled. The lack of a touch-base standard together with a 99 percent diversion limit applicable in the months of March through August results in the pooling of more milk than can reasonably be considered as actually serving the market's Class I needs. These inadequacies of the Pacific Northwest order have resulted in pooling milk which can not demonstrate actual service in supplying the Class I needs of the market. Such inadequacies only contribute to the unnecessary erosion of the order's blend price to those producers who do demonstrate such service.

This decision also finds agreement with the proponents of Proposal 1 that a cooperative manufacturing plant provision will provide flexibility in qualifying milk to be pooled. Allowing cooperative manufacturing plants the option to function as part of a pooling system will also assist producers and handlers in transporting milk in the most cost-efficient manner. This provision will give the cooperatives operating manufacturing plants the ability to supply milk to distributing plants from a plant of the system located nearer a distributing plant without causing disruption to the market. System pooling will allow cooperative manufacturing plants to make more cost-effective decisions in transporting milk while still satisfying the Class I demands of the order without disruption.

3. Emergency Marketing Conditions

Evidence presented at the hearing establishes that the pooling standards of the Pacific Northwest order are inadequate and are resulting in a significant present and ongoing erosion of the blend price received by producers who actually demonstrate performance by supplying the Class I needs of the market. This unwarranted erosion of blend prices stems from the lack of a reasonable and effective standard to ensure that the milk of the producer being pooled is actually being delivered to pool plants that supply milk to meet the Class I needs of the market. The erosion of the blend price received by producers is also compounded by an unnecessarily high diversion limit standard for the months of March through August. These shortcomings have allowed milk that has not provided a reasonable expectation of or demonstration of service in meeting the Class I needs of the marketing area to be pooled on the order. Consequently, it is determined that emergency marketing conditions exist in the Pacific

Northwest marketing area, and the issuance of a recommended decision is therefore being omitted. The record establishes a basis as noted above for amending the order on an interim basis. The opportunity to file written exceptions remains.

In view of this situation, an interim final rule amending the order will be issued as soon as the approval of producers is determined.

Rulings on Proposed Findings and Conclusions

Briefs, proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Pacific Northwest order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which a hearing has been held.

Interim Marketing Agreement and Interim Order Amending the Order

Annexed hereto and made a part hereof are two documents; an Interim Marketing Agreement regulating the handling of milk, and an Interim Order amending the order regulating the handling of milk in the Pacific Northwest Marketing Area, which has been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, that this entire tentative decision and the interim order and the interim marketing agreement annexed hereto be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

The month of May, 2002, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Pacific Northwest marketing area is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1124

Milk marketing order.

Dated: August 30, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

Interim Order Amending the Order Regulating the Handling of Milk in the Pacific Northwest Marketing Area

This interim order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Pacific Northwest marketing area. The hearing

was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and by in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Pacific Northwest marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The authority citation for 7 CFR part 1124 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1. Section 1124.7 is amended by:
 - a. Removing paragraph (c)(2) and (c)(3);
 - b. Redesignating paragraph (c)(4) as (c)(2);
 - c. Adding new paragraphs (d) and (f); and
 - d. Revising paragraph (g).

The revisions and additions read as follows:

§ 1124.7 Pool Plant.

* * * * *

(d) A manufacturing plant located within the marketing area and operated by a cooperative association, or its wholly owned subsidiary, if, during the month, or the immediately preceding 12-month period ending with the current month, 20 percent or more of

the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products (excluding concentrated milk transferred to a distributing plant for an agreed-upon use other than Class I) at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association, or its wholly owned subsidiary, and from plants of the cooperative association, or its wholly owned subsidiary, for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b), or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(3) A request is filed in writing with the market administrator before the first day of the month for which it is to be effective. The request will remain in effect until a cancellation request is filed in writing with the market administrator before the first day of the month for which the cancellation is to be effective.

* * * * *

(f) A system of two or more plants identified in § 1124.7(d) operated by one or more cooperative handlers may qualify for pooling by meeting the above shipping requirements subject to the following additional requirements:

(1) The cooperative handler(s) establishing the system submits a written request to the market administrator on or before the first day of the month for which the system is to be effective requesting that such plants qualify as a system. Such request will contain a list of the plants participating in the system in the order, beginning with the last plant, in which the plants will be dropped from the system if the system fails to qualify. Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system until the handler(s) establishing the system submits a written request before the first day of the month to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system. In the event of an

ownership change or the business failure of a handler that is a participant in the system, the system may be reorganized to reflect such a change if a written request to file a new marketing agreement is submitted to the market administrator; and

(2) If a system fails to qualify under the requirement of this paragraph, the handler responsible for qualifying the system shall notify the market administrator of which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continue up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system.

(g) The applicable shipping percentage of paragraphs (c) and (d) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the month for which the requested revision is desired to be effective. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

* * * * *

2. Section 1124.13 is amended by:

a. Redesignating paragraphs (e)(1) through (5) as paragraphs (e)(2) through (6);

b. Adding a new paragraph (e)(1); and

c. Revising redesignated paragraphs (e)(2), (e)(5), and (e)(6).

The revisions and additions read as follows:

§ 1124.13 Producer Milk.

* * * * *

(e) * * *

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least 3 days' production of such dairy farmer's production is physically received at a pool plant during the month.

(2) Of the quantity of producer milk received during the month (including

diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 80 percent.

* * * * *

(5) Any milk diverted in excess of the limits prescribed in paragraph (e)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1124.12(b)(5).

(6) The delivery day requirement in paragraph (e)(1) of this section and diversion percentage in paragraph (e)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure the orderly marketing and efficient handling of milk in the marketing area. Before making such finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired to be effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise the delivery day requirement or the diversion percentage must be issued in writing at least one day before the effective date.

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1124.1 to 1124.86 all inclusive, of the order regulating the

handling of milk in the Pacific Northwest marketing area (7 CFR part 1124) which is annexed hereto; and

II. The following provisions: Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of May 2002, _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Deputy Administrator, or Acting Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Department in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature By (Name) _____

(Title) _____

(Address) _____

(Seal) _____

Attest _____

[FR Doc. 02-22686 Filed 9-5-02; 8:45 am]

BILLING CODE 3410-02-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN: 3245-AE99

Small Business Size Standards; Size Standards by 2002 North American Industry Classification System

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule; correction.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting the proposed rule it published in the **Federal Register** on August 13, 2002, that would amend its Small Business Size Regulations by incorporating the Office of Management and Budget's (OMB) 2002 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards. The proposed rule published on August 13, 2002, contained a number of formatting errors that could make it difficult for some readers to distinguish between size standards defined in millions of dollars and those defined in number of employees. This correction contains a new table of size standards to clearly identify size standards by millions of dollars and by number of employees.

DATES: SBA must receive comments to the proposed rule on or before September 12, 2002.

ADDRESSES: Address all comments concerning the proposed rule to Gary M. Jackson, Assistant Administrator for Size Standards, Office of Size Standards, 409 Third Street, SW,

Washington, DC 20416; via email to sizestandards@sba.gov; or via facsimile, (202) 205-6390. SBA will make all public comments available to any person or concern upon request.

FOR FURTHER INFORMATION CONTACT: Carl Jordan, Office of Size Standards, at (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: SBA published a proposed rule in the **Federal Register** on August 13, 2002, (67 FR 52597) to amend its Small Business Size Regulations by incorporating the Office of Management and Budget's (OMB) 2002 modifications of the North American Industry Classification System (NAICS) into its table of small business size standards. These modifications are limited to industries in six (6) NAICS Sectors. The modifications result in a small number of size standard changes to certain NAICS activities. The proposed rule published in the **Federal Register** on August 13, 2002, did not include dollar signs for many of the monetary-based size standards. This correction revises the size standards table by listing size standards by millions of dollars and number of employees in separate columns.

In rule FR Doc. 02-20358 published on August 13, 2002 (67 FR 52633) make the following correction.

On page 52638, in the third column, correct amendatory instruction number 3 as follows:

3. Amend § 121.201 by revising the table of size standards to read as follows:

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Sector 11—Agriculture, Forestry, Fishing and Hunting			
Subsector 111—Crop Production			
111110	Soybean Farming	\$0.75	.....
111120	Oilseed (except Soybean) Farming	\$0.75	.....
111130	Dry Pea and Bean Farming	\$0.75	.....
111140	Wheat Farming	\$0.75	.....
111150	Corn Farming	\$0.75	.....
111160	Rice Farming	\$0.75	.....
111191	Oilseed and Grain Combination Farming	\$0.75	.....
111199	All Other Grain Farming	\$0.75	.....
111211	Potato Farming	\$0.75	.....
111219	Other Vegetable (except Potato) and Melon Farming	\$0.75	.....
111310	Orange Groves	\$0.75	.....
111320	Citrus (except Orange) Groves	\$0.75	.....
111331	Apple Orchards	\$0.75	.....
111332	Grape Vineyards	\$0.75	.....
111333	Strawberry Farming	\$0.75	.....
111334	Berry (except Strawberry) Farming	\$0.75	.....
111335	Tree Nut Farming	\$0.75	.....
111336	Fruit and Tree Nut Combination Farming	\$0.75	.....
111339	Other Noncitrus Fruit Farming	\$0.75	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
111411	Mushroom Production	\$0.75	.....
111419	Other Food Crops Grown Under Cover	\$0.75	.....
111421	Nursery and Tree Production	\$0.75	.....
111422	Floriculture Production	\$0.75	.....
111910	Tobacco Farming	\$0.75	.....
111920	Cotton Farming	\$0.75	.....
111930	Sugarcane Farming	\$0.75	.....
111940	Hay Farming	\$0.75	.....
111991	Sugar Beet Farming	\$0.75	.....
111992	Peanut Farming	\$0.75	.....
111998	All Other Miscellaneous Crop Farming	\$0.75	.....
Subsector 112—Animal Production			
112111	Beef Cattle Ranching and Farming	\$0.75	.....
112112	Cattle Feedlots	\$1.50	.....
112120	Dairy Cattle and Milk Production	\$0.75	.....
112210	Hog and Pig Farming	\$0.75	.....
112310	Chicken Egg Production	\$10.50	.....
112320	Broilers and Other Meat Type Chicken Production	\$0.75	.....
112330	Turkey Production	\$0.75	.....
112340	Poultry Hatcheries	\$0.75	.....
112390	Other Poultry Production	\$0.75	.....
112410	Sheep Farming	\$0.75	.....
112420	Goat Farming	\$0.75	.....
112511	Finfish Farming and Fish Hatcheries	\$0.75	.....
112512	Shellfish Farming	\$0.75	.....
112519	Other Animal Aquaculture	\$0.75	.....
112910	Apiculture	\$0.75	.....
112920	Horse and Other Equine Production	\$0.75	.....
112930	Fur-Bearing Animal and Rabbit Production	\$0.75	.....
112990	All Other Animal Production	\$0.75	.....
Subsector 113—Forestry and Logging			
113110	Timber Tract Operations	\$6.0	.....
113210	Forest Nurseries and Gathering of Forest Products	\$6.0	.....
113310	Logging .....	.....	500
Subsector 114—Fishing, Hunting and Trapping			
114111	Finfish Fishing	\$3.5	.....
114112	Shellfish Fishing	\$3.5	.....
114119	Other Marine Fishing	\$3.5	.....
114210	Hunting and Trapping	\$3.5	.....
Subsector 115—Support Activities for Agriculture and Forestry			
115111	Cotton Ginning	\$6.0	.....
115112	Soil Preparation, Planting, and Cultivating	\$6.0	.....
115113	Crop Harvesting, Primarily by Machine	\$6.0	.....
115114	Postharvest Crop Activities (except Cotton Ginning)	\$6.0	.....
115115	Farm Labor Contractors and Crew Leaders	\$6.0	.....
115116	Farm Management Services	\$6.0	.....
115210	Support Activities for Animal Production	\$6.0	.....
115310	Support Activities for Forestry	\$6.0	.....
Sector 21—Mining			
Subsector 211—Oil and Gas Extraction			
211111	Crude Petroleum and Natural Gas Extraction .....	.....	500
211112	Natural Gas Liquid Extraction .....	.....	500
Subsector 212—Mining (except Oil and Gas)			
212111	Bituminous Coal and Lignite Surface Mining .....	.....	500
212112	Bituminous Coal Underground Mining .....	.....	500
212113	Anthracite Mining .....	.....	500
212210	Iron Ore Mining .....	.....	500
212221	Gold Ore Mining .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
212222	Silver Ore Mining .....	.....	500
212231	Lead Ore and Zinc Ore Mining .....	.....	500
212234	Copper Ore and Nickel Ore Mining .....	.....	500
212291	Uranium-Radium-Vanadium Ore Mining .....	.....	500
212299	All Other Metal Ore Mining .....	.....	500
212311	Dimension Stone Mining and Quarrying .....	.....	500
212312	Crushed and Broken Limestone Mining and Quarrying .....	.....	500
212313	Crushed and Broken Granite Mining and Quarrying .....	.....	500
212319	Other Crushed and Broken Stone Mining and Quarrying .....	.....	500
212321	Construction Sand and Gravel Mining .....	.....	500
212322	Industrial Sand Mining .....	.....	500
212324	Kaolin and Ball Clay Mining .....	.....	500
212325	Clay and Ceramic and Refractory Minerals Mining .....	.....	500
212391	Potash, Soda, and Borate Mineral Mining .....	.....	500
212392	Phosphate Rock Mining .....	.....	500
212393	Other Chemical and Fertilizer Mineral Mining .....	.....	500
212399	All Other Nonmetallic Mineral Mining .....	.....	500
Subsector 213—Support Activities for Mining			
213111	Drilling Oil and Gas Wells .....	.....	500
213112	Support Activities for Oil and Gas Operations	\$6.0	.....
213113	Support Activities for Coal Mining	\$6.0	.....
213114	Support Activities for Metal Mining	\$6.0	.....
213115	Support Activities for Nonmetallic Minerals (except Fuels)	\$6.0	.....
Sector 22—Utilities			
Subsector 221—Utilities			
221111	Hydroelectric Power Generation	See footnote 1	.....
221112	Fossil Fuel Electric Power Generation	See footnote 1	.....
221113	Nuclear Electric Power Generation	See footnote 1	.....
221119	Other Electric Power Generation	See footnote 1	.....
221121	Electric Bulk Power Transmission and Control	See footnote 1	.....
221122	Electric Power Distribution	See footnote 1	.....
221210	Natural Gas Distribution .....	.....	500
221310	Water Supply and Irrigation Systems	\$6.0	.....
221320	Sewage Treatment Facilities	\$6.0	.....
221330	Steam and Air-Conditioning Supply	\$10.5	.....
Sector 23—Construction			
Subsector 236—Construction of Buildings			
236115	New Single-Family Housing Construction (except Operative Builders)	\$28.5	.....
236116	New Multifamily Housing Construction (except Operative Builders)	\$28.5	.....
236117	New Housing Operative Builders	\$28.5	.....
236118	Residential Remodelers	\$28.5	.....
236210	Industrial Building Construction	\$28.5	.....
236220	Commercial and Institutional Building Construction	\$28.5	.....
Subsector 237—Heavy and Civil Engineering Construction			
237110	Water and Sewer Line and Related Structures Construction	\$28.5	.....
237120	Oil and Gas Pipeline and Related Structures Construction	\$28.5	.....
237130	Power and Communication Line and Related Structures Construction	\$28.5	.....
237210	Land Subdivision	\$6.0	.....
237310	Highway, Street, and Bridge Construction	\$28.5	.....
237990	Other Heavy and Civil Engineering Construction	\$28.5	.....
EXCEPT,	Dredging and Surface Cleanup Activities ²	² \$17.0	.....
Subsector 238—Specialty Trade Contractors			
238110	Poured Concrete Foundation and Structure Contractors	\$12.0	.....
238120	Structural Steel and Precast Concrete Contractors	\$12.0	.....
238130	Framing Contractors	\$12.0	.....
238140	Masonry Contractors	\$12.0	.....
238150	Glass and Glazing Contractors	\$12.0	.....
238160	Roofing Contractors	\$12.0	.....
238170	Siding Contractors	\$12.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
238190	Other Foundation, Structure, and Building Exterior Contractors	\$12.0	.....
238210	Electrical Contractors	\$12.0	.....
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$12.0	.....
238290	Other Building Equipment Contractors	\$12.0	.....
238310	Drywall and Insulation Contractors	\$12.0	.....
238320	Painting and Wall Covering Contractors	\$12.0	.....
238330	Flooring Contractors	\$12.0	.....
238340	Tile and Terrazzo Contractors	\$12.0	.....
238350	Finish Carpentry Contractors	\$12.0	.....
238390	Other Building Finishing Contractors	\$12.0	.....
238910	Site Preparation Contractors	\$12.0	.....
238990	All Other Specialty Trade Contractors	\$12.0	.....
<i>EXCEPT,</i>	Base Housing Maintenance ¹³	¹³ \$12.0	.....

Sectors 31–33—Manufacturing

Subsector 311—Food Manufacturing

311111	Dog and Cat Food Manufacturing .....	.....	500
311119	Other Animal Food Manufacturing .....	.....	500
311211	Flour Milling .....	.....	500
311212	Rice Milling .....	.....	500
311213	Malt Manufacturing .....	.....	500
311221	Wet Corn Milling .....	.....	750
311222	Soybean Processing .....	.....	500
311223	Other Oilseed Processing .....	.....	1,000
311225	Fats and Oils Refining and Blending .....	.....	1,000
311230	Breakfast Cereal Manufacturing .....	.....	1,000
311311	Sugarcane Mills .....	.....	500
311312	Cane Sugar Refining .....	.....	750
311313	Beet Sugar Manufacturing .....	.....	750
311320	Chocolate and Confectionery Manufacturing from Cacao Beans .....	.....	500
311330	Confectionery Manufacturing from Purchased Chocolate .....	.....	500
311340	Non-Chocolate Confectionery Manufacturing .....	.....	500
311411	Frozen Fruit, Juice and Vegetable Manufacturing .....	.....	500
311412	Frozen Specialty Food Manufacturing .....	.....	500
311421	Fruit and Vegetable Canning ³ .....	.....	³ 500
311422	Specialty Canning .....	.....	1,000
311423	Dried and Dehydrated Food Manufacturing .....	.....	500
311511	Fluid Milk Manufacturing .....	.....	500
311512	Creamery Butter Manufacturing .....	.....	500
311513	Cheese Manufacturing .....	.....	500
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing .....	.....	500
311520	Ice Cream and Frozen Dessert Manufacturing .....	.....	500
311611	Animal (except Poultry) Slaughtering .....	.....	500
311612	Meat Processed from Carcasses .....	.....	500
311613	Rendering and Meat By-product Processing .....	.....	500
311615	Poultry Processing .....	.....	500
311711	Seafood Canning .....	.....	500
311712	Fresh and Frozen Seafood Processing .....	.....	500
311811	Retail Bakeries .....	.....	500
311812	Commercial Bakeries .....	.....	500
311813	Frozen Cakes, Pies, and Other Pastries Manufacturing .....	.....	500
311821	Cookie and Cracker Manufacturing .....	.....	750
311822	Flour Mixes and Dough Manufacturing from Purchased Flour .....	.....	500
311823	Dry Pasta Manufacturing .....	.....	500
311830	Tortilla Manufacturing .....	.....	500
311911	Roasted Nuts and Peanut Butter Manufacturing .....	.....	500
311919	Other Snack Food Manufacturing .....	.....	500
311920	Coffee and Tea Manufacturing .....	.....	500
311930	Flavoring Syrup and Concentrate Manufacturing .....	.....	500
311941	Mayonnaise, Dressing and Other Prepared Sauce Manufacturing .....	.....	500
311942	Spice and Extract Manufacturing .....	.....	500
311991	Perishable Prepared Food Manufacturing .....	.....	500
311999	All Other Miscellaneous Food Manufacturing .....	.....	500

Subsector 312—Beverage and Tobacco Product Manufacturing

312111	Soft Drink Manufacturing .....	.....	500
312112	Bottled Water Manufacturing .....	.....	500
312113	Ice Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
312120	Breweries .....	.....	500
312130	Wineries .....	.....	500
312140	Distilleries .....	.....	750
312210	Tobacco Stemming and Redrying .....	.....	500
312221	Cigarette Manufacturing .....	.....	1,000
312229	Other Tobacco Product Manufacturing .....	.....	500
Subsector 313—Textile Mills			
313111	Yarn Spinning Mills .....	.....	500
313112	Yarn Texturizing, Throwing and Twisting Mills .....	.....	500
311313	Thread Mills .....	.....	500
313210	Broadwoven Fabric Mills .....	.....	1,000
313221	Narrow Fabric Mills .....	.....	500
313222	Schiffli Machine Embroidery .....	.....	500
313230	Nonwoven Fabric Mills .....	.....	500
313241	Weft Knit Fabric Mills .....	.....	500
313249	Other Knit Fabric and Lace Mills .....	.....	500
313311	Broadwoven Fabric Finishing Mills .....	.....	1,000
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills .....	.....	500
313320	Fabric Coating Mills .....	.....	1,000
Subsector 314—Textile Product Mills			
314110	Carpet and Rug Mills .....	.....	500
314121	Curtain and Drapery Mills .....	.....	500
314129	Other Household Textile Product Mills .....	.....	500
314911	Textile Bag Mills .....	.....	500
314912	Canvas and Related Product Mills .....	.....	500
314991	Rope, Cordage and Twine Mills .....	.....	500
314992	Tire Cord and Tire Fabric Mills .....	.....	1,000
314999	All Other Miscellaneous Textile Product Mills .....	.....	500
Subsector 315—Apparel Manufacturing			
315111	Sheer Hosiery Mills .....	.....	500
315119	Other Hosiery and Sock Mills .....	.....	500
315191	Outerwear Knitting Mills .....	.....	500
315192	Underwear and Nightwear Knitting Mills .....	.....	500
315211	Men's and Boys' Cut and Sew Apparel Contractors .....	.....	500
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors .....	.....	500
315221	Men's and Boys' Cut and Sew Underwear and Nightwear Manufacturing .....	.....	500
315222	Men's and Boys' Cut and Sew Suit, Coat and Overcoat Manufacturing .....	.....	500
315223	Men's and Boys' Cut and Sew Shirt (except Work Shirt) Manufacturing .....	.....	500
315224	Men's and Boys' Cut and Sew Trouser, Slack and Jean Manufacturing .....	.....	500
315225	Men's and Boys' Cut and Sew Work Clothing Manufacturing .....	.....	500
315228	Men's and Boys' Cut and Sew Other Outerwear Manufacturing .....	.....	500
315231	Women's and Girls' Cut and Sew Lingerie, Loungewear and Nightwear Manufacturing .....	.....	500
315232	Women's and Girls' Cut and Sew Blouse and Shirt Manufacturing .....	.....	500
315233	Women's and Girls' Cut and Sew Dress Manufacturing .....	.....	500
315234	Women's and Girls' Cut and Sew Suit, Coat, Tailored Jacket and Skirt Manufacturing .....	.....	500
315239	Women's and Girls' Cut and Sew Other Outerwear Manufacturing .....	.....	500
315291	Infants' Cut and Sew Apparel Manufacturing .....	.....	500
315292	Fur and Leather Apparel Manufacturing .....	.....	500
315299	All Other Cut and Sew Apparel Manufacturing .....	.....	500
315991	Hat, Cap and Millinery Manufacturing .....	.....	500
315992	Glove and Mitten Manufacturing .....	.....	500
315993	Men's and Boys' Neckwear Manufacturing .....	.....	500
315999	Other Apparel Accessories and Other Apparel Manufacturing .....	.....	500
Subsector 316—Leather and Allied Product Manufacturing			
316110	Leather and Hide Tanning and Finishing .....	.....	500
316211	Rubber and Plastics Footwear Manufacturing .....	.....	1,000
316212	House Slipper Manufacturing .....	.....	500
316213	Men's Footwear (except Athletic) Manufacturing .....	.....	500
316214	Women's Footwear (except Athletic) Manufacturing .....	.....	500
316219	Other Footwear Manufacturing .....	.....	500
316991	Luggage Manufacturing .....	.....	500
316992	Women's Handbag and Purse Manufacturing .....	.....	500
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
316999	All Other Leather Good Manufacturing .....	.....	500
Subsector 321—Wood Product Manufacturing			
321113	Sawmills .....	.....	500
321114	Wood Preservation .....	.....	500
321211	Hardwood Veneer and Plywood Manufacturing .....	.....	500
321212	Softwood Veneer and Plywood Manufacturing .....	.....	500
321213	Engineered Wood Member (except Truss) Manufacturing .....	.....	500
321214	Truss Manufacturing .....	.....	500
321219	Reconstituted Wood Product Manufacturing .....	.....	500
321911	Wood Window and Door Manufacturing .....	.....	500
321912	Cut Stock, Resawing Lumber, and Planing .....	.....	500
321918	Other Millwork (including Flooring) .....	.....	500
321920	Wood Container and Pallet Manufacturing .....	.....	500
321991	Manufactured Home (Mobile Home) Manufacturing .....	.....	500
321992	Prefabricated Wood Building Manufacturing .....	.....	500
321999	All Other Miscellaneous Wood Product Manufacturing .....	.....	500
Subsector 322—Paper Manufacturing			
322110	Pulp Mills .....	.....	750
322121	Paper (except Newsprint) Mills .....	.....	750
322122	Newsprint Mills .....	.....	750
322130	Paperboard Mills .....	.....	750
322211	Corrugated and Solid Fiber Box Manufacturing .....	.....	500
322212	Folding Paperboard Box Manufacturing .....	.....	750
322213	Setup Paperboard Box Manufacturing .....	.....	500
322214	Fiber Can, Tube, Drum, and Similar Products Manufacturing .....	.....	500
322215	Non-Folding Sanitary Food Container Manufacturing .....	.....	750
322221	Coated and Laminated Packaging Paper and Plastics Film Manufacturing .....	.....	500
322222	Coated and Laminated Paper Manufacturing .....	.....	500
322223	Plastics, Foil, and Coated Paper Bag Manufacturing .....	.....	500
322224	Uncoated Paper and Multiwall Bag Manufacturing .....	.....	500
322225	Laminated Aluminum Foil Manufacturing for Flexible Packaging Uses .....	.....	500
322226	Surface-Coated Paperboard Manufacturing .....	.....	500
322231	Die-Cut Paper and Paperboard Office Supplies Manufacturing .....	.....	500
322232	Envelope Manufacturing .....	.....	500
322233	Stationery, Tablet, and Related Product Manufacturing .....	.....	500
322291	Sanitary Paper Product Manufacturing .....	.....	500
322299	All Other Converted Paper Product Manufacturing .....	.....	500
Subsector 323—Printing and Related Support Activities			
323110	Commercial Lithographic Printing .....	.....	500
323111	Commercial Gravure Printing .....	.....	500
323112	Commercial Flexographic Printing .....	.....	500
323113	Commercial Screen Printing .....	.....	500
323114	Quick Printing .....	.....	500
323115	Digital Printing .....	.....	500
323116	Manifold Business Forms Printing .....	.....	500
323117	Books Printing .....	.....	500
323118	Blankbook, Loose-leaf Binder and Device Manufacturing .....	.....	500
323119	Other Commercial Printing .....	.....	500
323121	Tradebinding and Related Work .....	.....	500
323122	Prepress Services .....	.....	500
Subsector 324—Petroleum and Coal Products Manufacturing			
324110	Petroleum Refineries ⁴ .....	.....	⁴ 1,500
324121	Asphalt Paving Mixture and Block Manufacturing .....	.....	500
324122	Asphalt Shingle and Coating Materials Manufacturing .....	.....	750
324191	Petroleum Lubricating Oil and Grease Manufacturing .....	.....	500
324199	All Other Petroleum and Coal Products Manufacturing .....	.....	500
Subsector 325—Chemical Manufacturing			
325110	Petrochemical Manufacturing .....	.....	1,000
325120	Industrial Gas Manufacturing .....	.....	1,000
325131	Inorganic Dye and Pigment Manufacturing .....	.....	1,000
325132	Synthetic Organic Dye and Pigment Manufacturing .....	.....	750
325181	Alkalies and Chlorine Manufacturing .....	.....	1,000

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
325182	Carbon Black Manufacturing .....	.....	500
325188	All Other Basic Inorganic Chemical Manufacturing .....	.....	1,000
325191	Gum and Wood Chemical Manufacturing .....	.....	500
325192	Cyclic Crude and Intermediate Manufacturing .....	.....	750
325193	Ethyl Alcohol Manufacturing .....	.....	1,000
325199	All Other Basic Organic Chemical Manufacturing .....	.....	1,000
325211	Plastics Material and Resin Manufacturing .....	.....	750
325212	Synthetic Rubber Manufacturing .....	.....	1,000
325221	Cellulosic Organic Fiber Manufacturing .....	.....	1,000
325222	Noncellulosic Organic Fiber Manufacturing .....	.....	1,000
325311	Nitrogenous Fertilizer Manufacturing .....	.....	1,000
325312	Phosphatic Fertilizer Manufacturing .....	.....	500
325314	Fertilizer (Mixing Only) Manufacturing .....	.....	500
325320	Pesticide and Other Agricultural Chemical Manufacturing .....	.....	500
325411	Medicinal and Botanical Manufacturing .....	.....	750
325412	Pharmaceutical Preparation Manufacturing .....	.....	750
325413	In-Vitro Diagnostic Substance Manufacturing .....	.....	500
325414	Biological Product (except Diagnostic) Manufacturing .....	.....	500
325510	Paint and Coating Manufacturing .....	.....	500
325520	Adhesive Manufacturing .....	.....	500
325611	Soap and Other Detergent Manufacturing .....	.....	750
325612	Polish and Other Sanitation Good Manufacturing .....	.....	500
325613	Surface Active Agent Manufacturing .....	.....	500
325620	Toilet Preparation Manufacturing .....	.....	500
325910	Printing Ink Manufacturing .....	.....	500
325920	Explosives Manufacturing .....	.....	750
325991	Custom Compounding of Purchased Resins .....	.....	500
325992	Photographic Film, Paper, Plate and Chemical Manufacturing .....	.....	500
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing .....	.....	500

Subsector 326—Plastics and Rubber Products Manufacturing

326111	Unsupported Plastics Bag Manufacturing .....	.....	500
326112	Unsupported Plastics Packaging Film and Sheet Manufacturing .....	.....	500
326113	Unsupported Plastics Film and Sheet (except Packaging) Manufacturing .....	.....	500
326121	Unsupported Plastics Profile Shapes Manufacturing .....	.....	500
326122	Plastics Pipe and Pipe Fitting Manufacturing .....	.....	500
326130	Laminated Plastics Plate, Sheet and Shape Manufacturing .....	.....	500
326140	Polystyrene Foam Product Manufacturing .....	.....	500
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing .....	.....	500
326160	Plastics Bottle Manufacturing .....	.....	500
326191	Plastics Plumbing Fixture Manufacturing .....	.....	500
326192	Resilient Floor Covering Manufacturing .....	.....	750
326199	All Other Plastics Product Manufacturing .....	.....	500
326211	Tire Manufacturing (except Retreading) ⁵ .....	.....	⁵ 1,000
326212	Tire Retreading .....	.....	500
326220	Rubber and Plastics Hoses and Belting Manufacturing .....	.....	500
326291	Rubber Product Manufacturing for Mechanical Use .....	.....	500
326299	All Other Rubber Product Manufacturing .....	.....	500

Subsector 327—Nonmetallic Mineral Product Manufacturing

327111	Vitreous China Plumbing Fixture and China and Earthenware Bathroom Accessories Manufacturing .....	.....	750
327112	Vitreous China, Fine Earthenware and Other Pottery Product Manufacturing .....	.....	500
327113	Porcelain Electrical Supply Manufacturing .....	.....	500
327121	Brick and Structural Clay Tile Manufacturing .....	.....	500
327122	Ceramic Wall and Floor Tile Manufacturing .....	.....	500
327123	Other Structural Clay Product Manufacturing .....	.....	500
327124	Clay Refractory Manufacturing .....	.....	500
327125	Nonclay Refractory Manufacturing .....	.....	750
327211	Flat Glass Manufacturing .....	.....	1,000
327212	Other Pressed and Blown Glass and Glassware Manufacturing .....	.....	750
327213	Glass Container Manufacturing .....	.....	750
327215	Glass Product Manufacturing Made of Purchased Glass .....	.....	500
327310	Cement Manufacturing .....	.....	750
327320	Ready-Mix Concrete Manufacturing .....	.....	500
327331	Concrete Block and Brick Manufacturing .....	.....	500
327332	Concrete Pipe Manufacturing .....	.....	500
327390	Other Concrete Product Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
327410	Lime Manufacturing .....	.....	500
327420	Gypsum Product Manufacturing .....	.....	1,000
327910	Abrasive Product Manufacturing .....	.....	500
327991	Cut Stone and Stone Product Manufacturing .....	.....	500
327992	Ground or Treated Mineral and Earth Manufacturing .....	.....	500
327993	Mineral Wool Manufacturing .....	.....	750
327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing .....	.....	500
Subsector 331—Primary Metal Manufacturing			
331111	Iron and Steel Mills .....	.....	1,000
331112	Electrometallurgical Ferroalloy Product Manufacturing .....	.....	750
331210	Iron and Steel Pipe and Tube Manufacturing from Purchased Steel .....	.....	1,000
331221	Cold-Rolled Steel Shape Manufacturing .....	.....	1,000
331222	Steel Wire Drawing .....	.....	1,000
331311	Alumina Refining .....	.....	1,000
331312	Primary Aluminum Production .....	.....	1,000
331314	Secondary Smelting and Alloying of Aluminum .....	.....	750
331315	Aluminum Sheet, Plate and Foil Manufacturing .....	.....	750
331316	Aluminum Extruded Product Manufacturing .....	.....	750
331319	Other Aluminum Rolling and Drawing .....	.....	750
331411	Primary Smelting and Refining of Copper .....	.....	1,000
331419	Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum) .....	.....	750
331421	Copper Rolling, Drawing and Extruding .....	.....	750
331422	Copper Wire (except Mechanical) Drawing .....	.....	1,000
331423	Secondary Smelting, Refining, and Alloying of Copper .....	.....	750
331491	Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing and Extruding .....	.....	750
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum).	.....	750
331511	Iron Foundries .....	.....	500
331512	Steel Investment Foundries .....	.....	500
331513	Steel Foundries (except Investment) .....	.....	500
331521	Aluminum Die-Casting Foundries .....	.....	500
331522	Nonferrous (except Aluminum) Die- Casting Foundries .....	.....	500
331524	Aluminum Foundries (except Die- Casting) .....	.....	500
331525	Copper Foundries (except Die- Casting) .....	.....	500
331528	Other Nonferrous Foundries (except Die-Casting) .....	.....	500
Subsector 332—Fabricated Metal Product Manufacturing			
332111	Iron and Steel Forging .....	.....	500
332112	Nonferrous Forging .....	.....	500
332114	Custom Roll Forming .....	.....	500
332115	Crown and Closure Manufacturing .....	.....	500
332116	Metal Stamping .....	.....	500
332117	Powder Metallurgy Part Manufacturing .....	.....	500
332211	Cutlery and Flatware (except Precious) Manufacturing .....	.....	500
332212	Hand and Edge Tool Manufacturing .....	.....	500
332213	Saw Blade and Handsaw Manufacturing .....	.....	500
332214	Kitchen Utensil, Pot and Pan Manufacturing .....	.....	500
332311	Prefabricated Metal Building and Component Manufacturing .....	.....	500
332312	Fabricated Structural Metal Manufacturing .....	.....	500
332313	Plate Work Manufacturing .....	.....	500
332321	Metal Window and Door Manufacturing .....	.....	500
332322	Sheet Metal Work Manufacturing .....	.....	500
332323	Ornamental and Architectural Metal Work Manufacturing .....	.....	500
332410	Power Boiler and Heat Exchanger Manufacturing .....	.....	500
332420	Metal Tank (Heavy Gauge) Manufacturing .....	.....	500
332431	Metal Can Manufacturing .....	.....	1,000
332439	Other Metal Container Manufacturing .....	.....	500
332510	Hardware Manufacturing .....	.....	500
332611	Spring (Heavy Gauge) Manufacturing .....	.....	500
332612	Spring (Light Gauge) Manufacturing .....	.....	500
332618	Other Fabricated Wire Product Manufacturing .....	.....	500
332710	Machine Shops .....	.....	500
332721	Precision Turned Product Manufacturing .....	.....	500
332722	Bolt, Nut, Screw, Rivet and Washer Manufacturing .....	.....	500
332811	Metal Heat Treating .....	.....	750
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers.	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
332813	Electroplating, Plating, Polishing, Anodizing and Coloring .....	.....	500
332911	Industrial Valve Manufacturing .....	.....	500
332912	Fluid Power Valve and Hose Fitting Manufacturing .....	.....	500
332913	Plumbing Fixture Fitting and Trim Manufacturing .....	.....	500
332919	Other Metal Valve and Pipe Fitting Manufacturing .....	.....	500
332991	Ball and Roller Bearing Manufacturing .....	.....	750
332992	Small Arms Ammunition Manufacturing .....	.....	1,000
332993	Ammunition (except Small Arms) Manufacturing .....	.....	1,500
332994	Small Arms Manufacturing .....	.....	1,000
332995	Other Ordnance and Accessories Manufacturing .....	.....	500
332996	Fabricated Pipe and Pipe Fitting Manufacturing .....	.....	500
332997	Industrial Pattern Manufacturing .....	.....	500
332998	Enameled Iron and Metal Sanitary Ware Manufacturing .....	.....	750
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing .....	.....	500

Subsector 333—Machinery Manufacturing⁶

333111	Farm Machinery and Equipment Manufacturing .....	.....	500
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing .....	.....	500
333120	Construction Machinery Manufacturing .....	.....	750
333131	Mining Machinery and Equipment Manufacturing .....	.....	500
333132	Oil and Gas Field Machinery and Equipment Manufacturing .....	.....	500
333210	Sawmill and Woodworking Machinery Manufacturing .....	.....	500
333220	Plastics and Rubber Industry Machinery Manufacturing .....	.....	500
333291	Paper Industry Machinery Manufacturing .....	.....	500
333292	Textile Machinery Manufacturing .....	.....	500
333293	Printing Machinery and Equipment Manufacturing .....	.....	500
333294	Food Product Machinery Manufacturing .....	.....	500
333295	Semiconductor Machinery Manufacturing .....	.....	500
333298	All Other Industrial Machinery Manufacturing .....	.....	500
333311	Automatic Vending Machine Manufacturing .....	.....	500
333312	Commercial Laundry, Drycleaning and Pressing Machine Manufacturing .....	.....	500
333313	Office Machinery Manufacturing .....	.....	1,000
333314	Optical Instrument and Lens Manufacturing .....	.....	500
333315	Photographic and Photocopying Equipment Manufacturing .....	.....	500
333319	Other Commercial and Service Industry Machinery Manufacturing .....	.....	500
333411	Air Purification Equipment Manufacturing .....	.....	500
333412	Industrial and Commercial Fan and Blower Manufacturing .....	.....	500
333414	Heating Equipment (except Warm Air Furnaces) Manufacturing .....	.....	500
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing .....	.....	750
333511	Industrial Mold Manufacturing .....	.....	500
333512	Machine Tool (Metal Cutting Types) Manufacturing .....	.....	500
333513	Machine Tool (Metal Forming Types) Manufacturing .....	.....	500
333514	Special Die and Tool, Die Set, Jig and Fixture Manufacturing .....	.....	500
333515	Cutting Tool and Machine Tool Accessory Manufacturing .....	.....	500
333516	Rolling Mill Machinery and Equipment Manufacturing .....	.....	500
333518	Other Metalworking Machinery Manufacturing .....	.....	500
333611	Turbine and Turbine Generator Set Unit Manufacturing .....	.....	1,000
333612	Speed Changer, Industrial High-Speed Drive and Gear Manufacturing .....	.....	500
333613	Mechanical Power Transmission Equipment Manufacturing .....	.....	500
333618	Other Engine Equipment Manufacturing .....	.....	1,000
333911	Pump and Pumping Equipment Manufacturing .....	.....	500
333912	Air and Gas Compressor Manufacturing .....	.....	500
333913	Measuring and Dispensing Pump Manufacturing .....	.....	500
333921	Elevator and Moving Stairway Manufacturing .....	.....	500
333922	Conveyor and Conveying Equipment Manufacturing .....	.....	500
333923	Overhead Traveling Crane, Hoist and Monorail System Manufacturing .....	.....	500
333924	Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing .....	.....	750
333991	Power-Driven Hand Tool Manufacturing .....	.....	500
333992	Welding and Soldering Equipment Manufacturing .....	.....	500
333993	Packaging Machinery Manufacturing .....	.....	500
333994	Industrial Process Furnace and Oven Manufacturing .....	.....	500
333995	Fluid Power Cylinder and Actuator Manufacturing .....	.....	500
333996	Fluid Power Pump and Motor Manufacturing .....	.....	500
333997	Scale and Balance (except Laboratory) Manufacturing .....	.....	500
333999	All Other Miscellaneous General Purpose Machinery Manufacturing .....	.....	500

Subsector 334—Computer and Electronic Product Manufacturing⁶

334111	Electronic Computer Manufacturing	1,000
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SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
334112	Computer Storage Device Manufacturing .....	.....	1,000
334113	Computer Terminal Manufacturing .....	.....	1,000
334119	Other Computer Peripheral Equipment Manufacturing .....	.....	1,000
334210	Telephone Apparatus Manufacturing .....	.....	1,000
334220	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.	.....	750
334290	Other Communications Equipment Manufacturing .....	.....	750
334310	Audio and Video Equipment Manufacturing .....	.....	750
334411	Electron Tube Manufacturing .....	.....	750
334412	Bare Printed Circuit Board Manufacturing .....	.....	500
334413	Semiconductor and Related Device Manufacturing .....	.....	500
334414	Electronic Capacitor Manufacturing .....	.....	500
334415	Electronic Resistor Manufacturing .....	.....	500
334416	Electronic Coil, Transformer, and Other Inductor Manufacturing .....	.....	500
334417	Electronic Connector Manufacturing .....	.....	500
334418	Printed Circuit Assembly (Electronic Assembly) Manufacturing .....	.....	500
334419	Other Electronic Component Manufacturing .....	.....	500
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing .....	.....	500
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing.	.....	750
334512	Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use.	.....	500
334513	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables.	.....	500
334514	Totalizing Fluid Meter and Counting Device Manufacturing .....	.....	500
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals .....	.....	500
334516	Analytical Laboratory Instrument Manufacturing .....	.....	500
334517	Irradiation Apparatus Manufacturing .....	.....	500
334518	Watch, Clock, and Part Manufacturing .....	.....	500
334519	Other Measuring and Controlling Device Manufacturing .....	.....	500
334611	Software Reproducing .....	.....	500
334612	Prerecorded Compact Disc (except Software), Tape, and Record Reproducing .....	.....	750
334613	Magnetic and Optical Recording Media Manufacturing .....	.....	1,000

Subsector 335—Electrical Equipment, Appliance and Component Manufacturing⁶

335110	Electric Lamp Bulb and Part Manufacturing .....	.....	1,000
335121	Residential Electric Lighting Fixture Manufacturing .....	.....	500
335122	Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing .....	.....	500
335129	Other Lighting Equipment Manufacturing .....	.....	500
335211	Electric Housewares and Household Fan Manufacturing .....	.....	750
335212	Household Vacuum Cleaner Manufacturing .....	.....	750
335221	Household Cooking Appliance Manufacturing .....	.....	750
335222	Household Refrigerator and Home Freezer Manufacturing .....	.....	1,000
335224	Household Laundry Equipment Manufacturing .....	.....	1,000
335228	Other Major Household Appliance Manufacturing .....	.....	500
335311	Power, Distribution and Specialty Transformer Manufacturing .....	.....	750
335312	Motor and Generator Manufacturing .....	.....	1,000
335313	Switchgear and Switchboard Apparatus Manufacturing .....	.....	750
335314	Relay and Industrial Control Manufacturing .....	.....	750
335911	Storage Battery Manufacturing .....	.....	500
335912	Primary Battery Manufacturing .....	.....	1,000
335921	Fiber Optic Cable Manufacturing .....	.....	1,000
335929	Other Communication and Energy Wire Manufacturing .....	.....	1,000
335931	Current-Carrying Wiring Device Manufacturing .....	.....	500
335932	Noncurrent-Carrying Wiring Device Manufacturing .....	.....	500
335991	Carbon and Graphite Product Manufacturing .....	.....	750
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing .....	.....	500

Subsector 336—Transportation Equipment Manufacturing⁶

336111	Automobile Manufacturing .....	.....	1,000
336112	Light Truck and Utility Vehicle Manufacturing .....	.....	1,000
336120	Heavy Duty Truck Manufacturing .....	.....	1,000
336211	Motor Vehicle Body Manufacturing .....	.....	1,000
336212	Truck Trailer Manufacturing .....	.....	500
336213	Motor Home Manufacturing .....	.....	1,000
336214	Travel Trailer and Camper Manufacturing .....	.....	500
336311	Carburetor, Piston, Piston Ring and Valve Manufacturing .....	.....	500
336312	Gasoline Engine and Engine Parts Manufacturing .....	.....	750

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
336321	Vehicular Lighting Equipment Manufacturing .....	.....	500
336322	Other Motor Vehicle Electrical and Electronic Equipment Manufacturing .....	.....	750
336330	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing .....	.....	750
336340	Motor Vehicle Brake System Manufacturing .....	.....	750
336350	Motor Vehicle Transmission and Power Train Parts Manufacturing .....	.....	750
336360	Motor Vehicle Seating and Interior Trim Manufacturing .....	.....	500
336370	Motor Vehicle Metal Stamping .....	.....	500
336391	Motor Vehicle Air-Conditioning Manufacturing .....	.....	750
336399	All Other Motor Vehicle Parts Manufacturing .....	.....	750
336411	Aircraft Manufacturing .....	.....	1,500
336412	Aircraft Engine and Engine Parts Manufacturing .....	.....	1,000
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing ⁷ .....	.....	⁷ 1,000
336414	Guided Missile and Space Vehicle Manufacturing .....	.....	1,000
336415	Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing .....	.....	1,000
336419	Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing .....	.....	1,000
336510	Railroad Rolling Stock Manufacturing .....	.....	1,000
336611	Ship Building and Repairing .....	.....	1,000
336612	Boat Building .....	.....	500
336991	Motorcycle, Bicycle and Parts Manufacturing .....	.....	500
336992	Military Armored Vehicle, Tank and Tank Component Manufacturing .....	.....	1,000
336999	All Other Transportation Equipment Manufacturing .....	.....	500

Subsector 337—Furniture and Related Product Manufacturing

337110	Wood Kitchen Cabinet and Counter Top Manufacturing .....	.....	500
337121	Upholstered Household Furniture Manufacturing .....	.....	500
337122	Nonupholstered Wood Household Furniture Manufacturing .....	.....	500
337124	Metal Household Furniture Manufacturing .....	.....	500
337125	Household Furniture (except Wood and Metal) Manufacturing .....	.....	500
337127	Institutional Furniture Manufacturing .....	.....	500
337129	Wood Television, Radio, and Sewing Machine Cabinet Manufacturing .....	.....	500
337211	Wood Office Furniture Manufacturing .....	.....	500
337212	Custom Architectural Woodwork and Millwork Manufacturing .....	.....	500
337214	Office Furniture (Except Wood) Manufacturing .....	.....	500
337215	Showcase, Partition, Shelving, and Locker Manufacturing .....	.....	500
337910	Mattress Manufacturing .....	.....	500
337920	Blind and Shade Manufacturing .....	.....	500

Subsector 339—Miscellaneous Manufacturing

339111	Laboratory Apparatus and Furniture Manufacturing .....	.....	500
339112	Surgical and Medical Instrument Manufacturing .....	.....	500
339113	Surgical Appliance and Supplies Manufacturing .....	.....	500
339114	Dental Equipment and Supplies Manufacturing .....	.....	500
339115	Ophthalmic Goods Manufacturing .....	.....	500
339116	Dental Laboratories .....	.....	500
339911	Jewelry (except Costume) Manufacturing .....	.....	500
339912	Silverware and Hollowware Manufacturing .....	.....	500
339913	Jewelers' Material and Lapidary Work Manufacturing .....	.....	500
339914	Costume Jewelry and Novelty Manufacturing .....	.....	500
339920	Sporting and Athletic Goods Manufacturing .....	.....	500
339931	Doll and Stuffed Toy Manufacturing .....	.....	500
339932	Game, Toy, and Children's Vehicle Manufacturing .....	.....	500
339941	Pen and Mechanical Pencil Manufacturing .....	.....	500
339942	Lead Pencil and Art Good Manufacturing .....	.....	500
339943	Marking Device Manufacturing .....	.....	500
339944	Carbon Paper and Inked Ribbon Manufacturing .....	.....	500
339950	Sign Manufacturing .....	.....	500
339991	Gasket, Packing, and Sealing Device Manufacturing .....	.....	500
339992	Musical Instrument Manufacturing .....	.....	500
339993	Fastener, Button, Needle and Pin Manufacturing .....	.....	500
339994	Broom, Brush and Mop Manufacturing .....	.....	500
339995	Burial Casket Manufacturing .....	.....	500
339999	All Other Miscellaneous Manufacturing .....	.....	500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
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Sector 42—Wholesale Trade

(Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Subsector 423—Merchant Wholesalers, Durable Goods

423110	Automobile and Other Motor Vehicle Merchant Wholesalers		100
423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers		100
423130	Tire and Tube Merchant Wholesalers		100
423140	Motor Vehicle Parts (Used) Merchant Wholesalers		100
423210	Furniture Merchant Wholesalers		100
423220	Home Furnishing Merchant Wholesalers		100
423310	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers		100
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers		100
423330	Roofing, Siding, and Insulation Material Merchant Wholesalers		100
423390	Other Construction Material Merchant Wholesalers		100
423410	Photographic Equipment and Supplies Merchant Wholesalers		100
423420	Office Equipment Merchant Wholesalers		100
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers		100
423440	Other Commercial Equipment Merchant Wholesalers		100
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers		100
423460	Ophthalmic Goods Merchant Wholesalers		100
423490	Other Professional Equipment and Supplies Merchant Wholesalers		100
423510	Metal Service Centers and Other Metal Merchant Wholesalers		100
423520	Coal and Other Mineral and Ore Merchant Wholesalers		100
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers		100
423620	Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers		100
423690	Other Electronic Parts and Equipment Merchant Wholesalers		100
423710	Hardware Merchant Wholesalers		100
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers		100
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers		100
423740	Refrigeration Equipment and Supplies Merchant Wholesalers		100
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers		100
423820	Farm and Garden Machinery and Equipment Merchant Wholesalers		100
423830	Industrial Machinery and Equipment Merchant Wholesalers		100
423840	Industrial Supplies Merchant Wholesalers		100
423850	Service Establishment Equipment and Supplies Merchant Wholesalers		100
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers		100
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers		100
423920	Toy and Hobby Goods and Supplies Merchant Wholesalers		100
423930	Recyclable Material Merchant Wholesalers		100
423940	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers		100
423990	Other Miscellaneous Durable Goods Merchant Wholesalers		100

Subsector 424—Merchant Wholesalers, Nondurable Goods

424110	Printing and Writing Paper Merchant Wholesalers		100
424120	Stationary and Office Supplies Merchant Wholesalers		100
424130	Industrial and Personal Service Paper Merchant Wholesalers		100
424210	Drugs and Druggists' Sundries Merchant Wholesalers		100
424310	Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers		100
424320	Men's and Boys' Clothing and Furnishings Merchant Wholesalers		100
424330	Women's, Children's, and Infants' Clothing and Accessories Merchant Wholesalers		100
424340	Footwear Merchant Wholesalers		100
424410	General Line Grocery Merchant Wholesalers		100
424420	Packaged Frozen Food Merchant Wholesalers		100
424430	Dairy Product (except Dried or Canned) Merchant Wholesalers		100
424440	Poultry and Poultry Product Merchant Wholesalers		100
424450	Confectionery Merchant Wholesalers		100
424460	Fish and Seafood Merchant Wholesalers		100
424470	Meat and Meat Product Merchant Wholesalers		100
424480	Fresh Fruit and Vegetable Merchant Wholesalers		100
424490	Other Grocery and Related Products Merchant Wholesalers		100
424510	Grain and Field Bean Merchant Wholesalers		100
424520	Livestock Merchant Wholesalers		100
424590	Other Farm Product Raw Material Merchant Wholesalers		100
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers		100
424690	Other Chemical and Allied Products Merchant Wholesalers		100
424710	Petroleum Bulk Stations and Terminals		100

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals).	.....	100
424810	Beer and Ale Merchant Wholesalers .....	.....	100
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers .....	.....	100
424910	Farm Supplies Merchant Wholesalers .....	.....	100
424920	Book, Periodical, and Newspaper Merchant Wholesalers .....	.....	100
424930	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers .....	.....	100
424940	Tobacco and Tobacco Product Merchant Wholesalers .....	.....	100
424950	Paint, Varnish, and Supplies Merchant Wholesalers .....	.....	100
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers .....	.....	100

Subsector 425—Wholesale Electronic Markets and Agents and Brokers

425110	Business to Business Electronic Markets .....	.....	100
425120	Wholesale Trade Agents and Brokers .....	.....	100

Sectors 44–45—Retail Trade

(Not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

Subsector 441—Motor Vehicle and Parts Dealers

441110	New Car Dealers	\$24.5	.....
441120	Used Car Dealers	\$19.5	.....
441210	Recreational Vehicle Dealers	\$6.0	.....
441221	Motorcycle Dealers	\$6.0	.....
441222	Boat Dealers	\$6.0	.....
441229	All Other Motor Vehicle Dealers	\$6.0	.....
EXCEPT,	Aircraft Dealers, Retail	\$8.5	.....
441310	Automotive Parts and Accessories Stores	\$6.0	.....
441320	Tire Dealers	\$6.0	.....

Subsector 442—Furniture and Home Furnishings Stores

442110	Furniture Stores	\$6.0	.....
442210	Floor Covering Stores	\$6.0	.....
442291	Window Treatment Stores	\$6.0	.....
442299	All Other Home Furnishings Stores	\$6.0	.....

Subsector 443—Electronics and Appliance Stores

443111	Household Appliance Stores	\$7.5	.....
443112	Radio, Television and Other Electronics Stores	\$7.5	.....
443120	Computer and Software Stores	\$7.5	.....
443130	Camera and Photographic Supplies Stores	\$6.0	.....

Subsector 444—Building Material and Garden Equipment and Supplies Dealers

444110	Home Centers	\$6.0	.....
444120	Paint and Wallpaper Stores	\$6.0	.....
444130	Hardware Stores	\$6.0	.....
444190	Other Building Material Dealers	\$6.0	.....
444210	Outdoor Power Equipment Stores	\$6.0	.....
444220	Nursery and Garden Centers	\$6.0	.....

Subsector 445—Food and Beverage Stores

445110	Supermarkets and Other Grocery (except Convenience) Stores	\$23.0	.....
445120	Convenience Stores	\$23.0	.....
445210	Meat Markets	\$6.0	.....
445220	Fish and Seafood Markets	\$6.0	.....
445230	Fruit and Vegetable Markets	\$6.0	.....
445291	Baked Goods Stores	\$6.0	.....
445292	Confectionery and Nut Stores	\$6.0	.....
445299	All Other Specialty Food Stores	\$6.0	.....
445310	Beer, Wine and Liquor Stores	\$6.0	.....

Subsector 446—Health and Personal Care Stores

446110	Pharmacies and Drug Stores	\$6.0	.....
446120	Cosmetics, Beauty Supplies and Perfume Stores	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
446130	Optical Goods Stores	\$6.0	.....
446191	Food (Health) Supplement Stores	\$6.0	.....
446199	All Other Health and Personal Care Stores	\$6.0	.....
Subsector 447—Gasoline Stations			
447110	Gasoline Stations with Convenience Stores	\$23.0	.....
447190	Other Gasoline Stations	\$7.5	.....
Subsector 448—Clothing and Clothing Accessories Stores			
448110	Men's Clothing Stores	\$7.5	.....
448120	Women's Clothing Stores	\$7.5	.....
448130	Children's and Infants' Clothing Stores	\$6.0	.....
448140	Family Clothing Stores	\$7.5	.....
448150	Clothing Accessories Stores	\$6.0	.....
448190	Other Clothing Stores	\$6.0	.....
448210	Shoe Stores	\$7.5	.....
448310	Jewelry Stores	\$6.0	.....
448320	Luggage and Leather Goods Stores	\$6.0	.....
Subsector 451—Sporting Good, Hobby, Book and Music Stores			
451110	Sporting Goods Stores	\$6.0	.....
451120	Hobby, Toy and Game Stores	\$6.0	.....
451130	Sewing, Needlework and Piece Goods Stores	\$6.0	.....
451140	Musical Instrument and Supplies Stores	\$6.0	.....
451211	Book Stores	\$6.0	.....
451212	News Dealers and Newsstands	\$6.0	.....
451220	Prerecorded Tape, Compact Disc and Record Stores	\$6.0	.....
Subsector 452—General Merchandise Stores			
452111	Department Stores (except Discount Department Stores)	\$23.0	.....
452112	Discount Department Stores	\$23.0	.....
452910	Warehouse Clubs and Superstores	\$23.0	.....
452990	All Other General Merchandise Stores	\$9.5	.....
Subsector 453—Miscellaneous Store Retailers			
453110	Florists	\$6.0	.....
453210	Office Supplies and Stationery Stores	\$6.0	.....
453220	Gift, Novelty and Souvenir Stores	\$6.0	.....
453310	Used Merchandise Stores	\$6.0	.....
453910	Pet and Pet Supplies Stores	\$6.0	.....
453920	Art Dealers	\$6.0	.....
453930	Manufactured (Mobile) Home Dealers	\$11.0	.....
453991	Tobacco Stores	\$6.0	.....
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$6.0	.....
454111	Electronic Shopping	\$21.0	.....
454112	Electronic Auctions	\$21.0	.....
454113	Mail-Order Houses	\$21.0	.....
454210	Vending Machine Operators	\$6.0	.....
454311	Heating Oil Dealers	\$10.5	.....
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	\$6.0	.....
454319	Other Fuel Dealers	\$6.0	.....
454390	Other Direct Selling Establishments	\$6.0	.....
Sectors 48–49—Transportation			
Subsector 481—Air Transportation			
481111	Scheduled Passenger Air Transportation .....	.....	1,500
481112	Scheduled Freight Air Transportation .....	.....	1,500
481211	Nonscheduled Chartered Passenger Air Transportation .....	.....	1,500
EXCEPT,	Offshore Marine Air Transportation Services	\$23.5	.....
481212	Nonscheduled Chartered Freight Air Transportation .....	.....	1,500
EXCEPT,	Offshore Marine Air Transportation Services	\$23.5	.....
481219	Other Nonscheduled Air Transportation	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 482—Rail Transportation			
482111	Line-Haul Railroads .....	.....	500
482112	Short Line Railroads .....	.....
Subsector 483—Water Transportation ¹⁵			
483111	Deep Sea Freight Transportation .....	.....	500
483112	Deep Sea Passenger Transportation .....	.....	500
483113	Coastal and Great Lakes Freight Transportation .....	.....	500
483114	Coastal and Great Lakes Passenger Transportation .....	.....	500
483211	Inland Water Freight Transportation .....	.....	500
483212	Inland Water Passenger Transportation .....	.....	500
Subsector 484—Truck Transportation			
484110	General Freight Trucking, Local	\$21.5	.....
484121	General Freight Trucking, Long-Distance, Truckload	\$21.5	.....
484122	General Freight Trucking, Long-Distance, Less Than Truckload	\$21.5	.....
484210	Used Household and Office Goods Moving	\$21.5	.....
484220	Specialized Freight (except Used Goods) Trucking, Local	\$21.5	.....
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance	\$21.5	.....
Subsector 485—Transit and Ground Passenger Transportation			
485111	Mixed Mode Transit Systems	\$6.0	.....
485112	Commuter Rail Systems	\$6.0	.....
485113	Bus and Motor Vehicle Transit Systems	\$6.0	.....
485119	Other Urban Transit Systems	\$6.0	.....
485210	Interurban and Rural Bus Transportation	\$6.0	.....
485310	Taxi Service	\$6.0	.....
485320	Limousine Service	\$6.0	.....
485410	School and Employee Bus Transportation	\$6.0	.....
485510	Charter Bus Industry	\$6.0	.....
485991	Special Needs Transportation	\$6.0	.....
485999	All Other Transit and Ground Passenger Transportation	\$6.0	.....
Subsector 486—Pipeline Transportation			
486110	Pipeline Transportation of Crude Oil .....	.....	1,500
486210	Pipeline Transportation of Natural Gas	\$6.0	.....
486910	Pipeline Transportation of Refined Petroleum Products .....	.....	1,500
486990	All Other Pipeline Transportation	\$29.0	.....
Subsector 487—Scenic and Sightseeing Transportation			
487110	Scenic and Sightseeing Transportation, Land	\$6.0	.....
487210	Scenic and Sightseeing Transportation, Water	\$6.0	.....
487990	Scenic and Sightseeing Transportation, Other	\$6.0	.....
Subsector 488—Support Activities for Transportation			
488111	Air Traffic Control	\$6.0	.....
488119	Other Airport Operations	\$6.0	.....
488190	Other Support Activities for Air Transportation	\$6.0	.....
488210	Support Activities for Rail Transportation	\$6.0	.....
488310	Port and Harbor Operations	\$21.5	.....
488320	Marine Cargo Handling	\$21.5	.....
488330	Navigational Services to Shipping	\$6.0	.....
488390	Other Support Activities for Water Transportation	\$6.0	.....
488410	Motor Vehicle Towing	\$6.0	.....
488490	Other Support Activities for Road Transportation	\$6.0	.....
488510	Freight Transportation Arrangement ¹⁰	\$6.0 ¹⁰	.....
EXCEPT,	Non-Vessel Owning Common Carriers Household Goods Forwarders	\$21.5	.....
488991	Packing and Crating	\$21.5	.....
488999	All Other Support Activities for Transportation	\$6.0	.....
Subsector 491—Postal Service			
491110	Postal Service	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Subsector 492—Couriers and Messengers			
492110	Couriers .....	.....	.....
492210	Local Messengers and Local Delivery	\$21.5	.....
Subsector 493—Warehousing and Storage			
493110	General Warehousing and Storage	\$21.5	.....
493120	Refrigerated Warehousing and Storage	\$21.5	.....
493130	Farm Product Warehousing and Storage	\$21.5	.....
493190	Other Warehousing and Storage	\$21.5	.....
Sector 51—Information			
Subsector 511—Publishing Industries (except Internet)			
511110	Newspaper Publishers .....	.....	500
511120	Periodical Publishers .....	.....	500
511130	Book Publishers .....	.....	500
511140	Directory and Mailing List Publishers .....	.....	500
511191	Greeting Card Publishers .....	.....	500
511199	All Other Publishers .....	.....	500
511210	Software Publishers	\$21.0	.....
Subsector 512—Motion Picture and Sound Recording Industries			
512110	Motion Picture and Video Production	\$25.0	.....
512120	Motion Picture and Video Distribution	\$25.0	.....
512131	Motion Picture Theaters (except Drive-Ins)	\$6.0	.....
512132	Drive-In Motion Picture Theaters	\$6.0	.....
512191	Teleproduction and Other Postproduction Services	\$25.0	.....
512199	Other Motion Picture and Video Industries	\$6.0	.....
512210	Record Production	\$6.0	.....
512220	Integrated Record Production/Distribution .....	.....	750
512230	Music Publishers .....	.....	500
512240	Sound Recording Studios	\$6.0	.....
512290	Other Sound Recording Industries	\$6.0	.....
Subsector 515—Broadcasting (except Internet)			
515111	Radio Networks	\$6.0	.....
515112	Radio Stations	\$6.0	.....
515120	Television Broadcasting	\$12.0	.....
515210	Cable and Other Subscription Programming	\$12.5	.....
Subsector 516—Internet Publishing and Broadcasting			
516110	Internet Publishing and Broadcasting .....	.....	500
Subsector 517—Telecommunications			
517110	Wired Telecommunications Carriers .....	.....	1,500
517211	Paging .....	.....	1,500
517212	Cellular and Other Wireless Telecommunications .....	.....	1,500
517310	Telecommunications Resellers .....	.....	1,500
517410	Satellite Telecommunications	\$12.5	.....
517510	Cable and Other Program Distribution	\$12.5	.....
517910	Other Telecommunications	\$12.5	.....
Subsector 518—Internet Service Providers, Web Search Portals, and Data Processing Services			
518111	Internet Service Providers	\$21.0	.....
518112	Web Search Portals	\$6.0	.....
518210	Data Processing, Hosting, and Related Services	\$21.0	.....
Subsector 519—Other Information Services			
519110	News Syndicates	\$6.0	.....
519120	Libraries and Archives	\$6.0	.....
519190	All Other Information Services	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
Sector 52—Finance and Insurance			
Subsector 522—Credit Intermediation and Related Activities			
522110	Commercial Banking ⁸	\$150 million in assets ⁸	
522120	Savings Institutions ⁸	\$150 million in assets ⁸	
522130	Credit Unions ⁸	\$150 million in assets ⁸	
522190	Other Depository Credit Intermediation ⁸	\$150 million in assets ⁸	
522210	Credit Card Issuing ⁸	\$150 million in assets ⁸	
522220	Sales Financing	\$6.0	
522291	Consumer Lending	\$6.0	
522292	Real Estate Credit	\$6.0	
522293	International Trade Financing ⁸	\$150 million in assets ⁸	
522294	Secondary Market Financing	\$6.0	
522298	All Other Non-Depository Credit Intermediation	\$6.0	
522310	Mortgage and Nonmortgage Loan Brokers	\$6.0	
522320	Financial Transactions Processing, Reserve, and Clearing House Activities	\$6.0	
522390	Other Activities Related to Credit Intermediation	\$6.0	
Subsector 523—Financial Investments and Related Activities			
523110	Investment Banking and Securities Dealing	\$6.0	
523120	Securities Brokerage	\$6.0	
523130	Commodity Contracts Dealing	\$6.0	
523140	Commodity Contracts Brokerage	\$6.0	
523210	Securities and Commodity Exchanges	\$6.0	
523910	Miscellaneous Intermediation	\$6.0	
523920	Portfolio Management	\$6.0	
523930	Investment Advice	\$6.0	
523991	Trust, Fiduciary and Custody Activities	\$6.0	
523999	Miscellaneous Financial Investment Activities	\$6.0	
Subsector 524—Insurance Carriers and Related Activities			
524113	Direct Life Insurance Carriers	\$6.0	
524114	Direct Health and Medical Insurance Carriers	\$6.0	
524126	Direct Property and Casualty Insurance Carriers		1,500
524127	Direct Title Insurance Carriers	\$6.0	
524128	Other Direct Insurance (except Life, Health and Medical) Carriers	\$6.0	
524130	Reinsurance Carriers	\$6.0	
524210	Insurance Agencies and Brokerages	\$6.0	
524291	Claims Adjusting	\$6.0	
524292	Third Party Administration of Insurance and Pension Funds	\$6.0	
524298	All Other Insurance Related Activities	\$6.0	
Subsector 525—Funds, Trusts and Other Financial Vehicles			
525110	Pension Funds	\$6.0	
525120	Health and Welfare Funds	\$6.0	
525190	Other Insurance Funds	\$6.0	
525910	Open-End Investment Funds	\$6.0	
525920	Trusts, Estates, and Agency Accounts	\$6.0	
525930	Real Estate Investment Trusts	\$6.0	
525990	Other Financial Vehicles	\$6.0	
Sector 53—Real Estate and Rental and Leasing			
Subsector 531—Real Estate			
531110	Lessors of Residential Buildings and Dwellings	\$6.0	
531120	Lessors of Nonresidential Buildings (except Miniwarehouses)	\$6.0	
531130	Lessors of Miniwarehouses and Self Storage Units	\$21.5	
531190	Lessors of Other Real Estate Property	\$6.0	
EXCEPT,	Leasing of Building Space to Federal Government by Owners	⁹ \$17.5	
531210	Offices of Real Estate Agents and Brokers ⁹	¹⁰ \$1.5	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
531311	Residential Property Managers ¹⁰	\$1.5	.....
531312	Nonresidential Property Managers	\$1.5	.....
531320	Offices of Real Estate Appraisers	\$1.5	.....
531390	Other Activities Related to Real Estate	\$1.5	.....
Subsector 532—Rental and Leasing Services			
532111	Passenger Car Rental	\$21.5	.....
532112	Passenger Car Leasing	\$21.5	.....
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	\$21.5	.....
532210	Consumer Electronics and Appliances Rental	\$6.0	.....
532220	Formal Wear and Costume Rental	\$6.0	.....
532230	Video Tape and Disc Rental	\$6.0	.....
532291	Home Health Equipment Rental	\$6.0	.....
532292	Recreational Goods Rental	\$6.0	.....
532299	All Other Consumer Goods Rental	\$6.0	.....
532310	General Rental Centers	\$6.0	.....
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	\$6.0	.....
532412	Construction, Mining and Forestry Machinery and Equipment Rental and Leasing	\$6.0	.....
532420	Office Machinery and Equipment Rental and Leasing	\$21.0	.....
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	\$6.0	.....
Subsector 533—Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)			
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	\$6.0	.....
Sector 54—Professional, Scientific and Technical Services			
Subsector 541—Professional, Scientific and Technical Services			
541110	Offices of Lawyers	\$6.0	.....
541191	Title Abstract and Settlement Offices	\$6.0	.....
541199	All Other Legal Services	\$6.0	.....
541211	Offices of Certified Public Accountants	\$7.0	.....
541213	Tax Preparation Services	\$6.0	.....
541214	Payroll Services	\$7.0	.....
541219	Other Accounting Services	\$7.0	.....
541310	Architectural Services	\$4.0	.....
541320	Landscape Architectural Services	\$6.0	.....
541330	Engineering Services	\$4.0	.....
EXCEPT, EXCEPT,	Military and Aerospace Equipment and Military Weapons.	\$23.0	.....
EXCEPT,	Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992..	\$23.0	.....
EXCEPT,	Marine Engineering and Naval Architecture.	\$15.5	.....
541340	Drafting Services	\$6.0	.....
EXCEPT,	Map Drafting	\$4.0	.....
541350	Building Inspection Services	\$6.0	.....
541360	Geophysical Surveying and Mapping Services	\$4.0	.....
541370	Surveying and Mapping (except Geophysical) Services	\$4.0	.....
541380	Testing Laboratories	\$6.0	.....
541410	Interior Design Services	\$6.0	.....
541420	Industrial Design Services	\$6.0	.....
541430	Graphic Design Services	\$6.0	.....
541490	Other Specialized Design Services	\$6.0	.....
541511	Custom Computer Programming Services	\$21.0	.....
541512	Computer Systems Design Services	\$21.0	.....
541513	Computer Facilities Management Services	\$21.0	.....
541519	Other Computer Related Services	\$21.0	.....
541611	Administrative Management and General Management Consulting Services	\$6.0	.....
541612	Human Resources and Executive Search Consulting Services	\$6.0	.....
541613	Marketing Consulting Services	\$6.0	.....
541614	Process, Physical Distribution and Logistics Consulting Services	\$6.0	.....
541618	Other Management Consulting Services	\$6.0	.....
541620	Environmental Consulting Services	\$6.0	.....
541690	Other Scientific and Technical Consulting Services	\$6.0	.....
541710	Research and Development in the Physical, Engineering, and Life Sciences ¹¹ .....	.....	¹¹ 500
EXCEPT,	Aircraft	1,500	.....
EXCEPT,	Aircraft Parts, and Auxiliary Equipment, and Aircraft Engine Parts	1,000	.....
EXCEPT,	Space Vehicles and Guided Missiles, their Propulsion Units, their Propulsion Units Parts, and their Auxiliary Equipment and Parts.	1,000	.....
541720	Research and Development in the Social Sciences and Humanities	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
541810	Advertising Agencies ¹⁰	¹⁰ \$6.0	.....
541820	Public Relations Agencies	\$6.0	.....
541830	Media Buying Agencies	\$6.0	.....
541840	Media Representatives	\$6.0	.....
541850	Display Advertising	\$6.0	.....
541860	Direct Mail Advertising	\$6.0	.....
541870	Advertising Material Distribution Services	\$6.0	.....
541890	Other Services Related to Advertising	\$6.0	.....
541910	Marketing Research and Public Opinion Polling	\$6.0	.....
541921	Photography Studios, Portrait	\$6.0	.....
541922	Commercial Photography	\$6.0	.....
541930	Translation and Interpretation Services	\$6.0	.....
541940	Veterinary Services	\$6.0	.....
541990	All Other Professional, Scientific and Technical Services	\$6.0	.....

Sector 55—Management of Companies and Enterprises

Subsector 551—Management of Companies and Enterprises

551111	Offices of Bank Holding Companies	\$6.0	.....
551112	Offices of Other Holding Companies	\$6.0	.....

Sector 56—Administrative and Support, Waste Management and Remediation Services

Subsector 561—Administrative and Support Services

561110	Office Administrative Services	\$6.0	.....
561210	Facilities Support Services ¹²	¹² \$6.0	.....
<i>EXCEPT,</i>	Base Maintenance ¹³	¹³ \$23.0	.....
561310	Employment Placement Agencies	\$6.0	.....
561320	Temporary Help Services	\$11.5	.....
561330	Employee Leasing Services	\$11.5	.....
561410	Document Preparation Services	\$6.0	.....
561421	Telephone Answering Services	\$6.0	.....
561422	Telemarketing Bureaus	\$6.0	.....
561431	Private Mail Centers	\$6.0	.....
561439	Other Business Service Centers (including Copy Shops)	\$6.0	.....
561440	Collection Agencies	\$6.0	.....
561450	Credit Bureaus	\$6.0	.....
561491	Repossession Services	\$6.0	.....
561492	Court Reporting and Stenotype Services	\$6.0	.....
561499	All Other Business Support Services	\$6.0	.....
561510	Travel Agencies ¹⁰	¹⁰ \$3.0	.....
561520	Tour Operators	\$6.0	.....
561591	Convention and Visitors Bureaus	\$6.0	.....
561599	All Other Travel Arrangement and Reservation Services	\$6.0	.....
561611	Investigation Services	\$10.5	.....
561612	Security Guards and Patrol Services	\$10.5	.....
561613	Armored Car Services	\$10.5	.....
561621	Security Systems Services (except Locksmiths)	\$10.5	.....
561622	Locksmiths	\$6.0	.....
561710	Exterminating and Pest Control Services	\$6.0	.....
561720	Janitorial Services	\$14.0	.....
561730	Landscaping Services	\$6.0	.....
561740	Carpet and Upholstery Cleaning Services	\$4.0	.....
561790	Other Services to Buildings and Dwellings	\$6.0	.....
561910	Packaging and Labeling Services	\$6.0	.....
561920	Convention and Trade Show Organizers ¹⁰	¹⁰ \$6.0	.....
561990	All Other Support Services	\$6.0	.....

Subsector 562—Waste Management and Remediation Services

562111	Solid Waste Collection	\$10.5	.....
562112	Hazardous Waste Collection	\$10.5	.....
562119	Other Waste Collection	\$10.5	.....
562211	Hazardous Waste Treatment and Disposal	\$10.5	.....
562212	Solid Waste Landfill	\$10.5	.....
562213	Solid Waste Combustors and Incinerators	\$10.5	.....
562219	Other Nonhazardous Waste Treatment and Disposal	\$10.5	.....
562910	Remediation Services	\$12.0	.....
<i>EXCEPT,</i>	Environmental Remediation Services ¹⁴ .....	.....	¹⁴ 500

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
562920	Materials Recovery Facilities	\$10.5	.....
562991	Septic Tank and Related Services	\$6.0	.....
562998	All Other Miscellaneous Waste Management Services	\$6.0	.....
Sector 61—Educational Services			
Subsector 611—Educational Services			
611110	Elementary and Secondary Schools	\$6.0	.....
611210	Junior Colleges	\$6.0	.....
611310	Colleges, Universities and Professional Schools	\$6.0	.....
611410	Business and Secretarial Schools	\$6.0	.....
611420	Computer Training	\$6.0	.....
611430	Professional and Management Development Training	\$6.0	.....
611511	Cosmetology and Barber Schools	\$6.0	.....
611512	Flight Training	\$21.5	.....
611513	Apprenticeship Training	\$6.0	.....
611519	Other Technical and Trade Schools	\$6.0	.....
611610	Fine Arts Schools	\$6.0	.....
611620	Sports and Recreation Instruction	\$6.0	.....
611630	Language Schools	\$6.0	.....
611691	Exam Preparation and Tutoring	\$6.0	.....
611692	Automobile Driving Schools	\$6.0	.....
611699	All Other Miscellaneous Schools and Instruction	\$6.0	.....
611710	Educational Support Services	\$6.0	.....
Sector 62—Health Care and Social Assistance			
Subsector 621—Ambulatory Health Care Services			
621111	Offices of Physicians (except Mental Health Specialists)	\$8.5	.....
621112	Offices of Physicians, Mental Health Specialists	\$8.5	.....
621210	Offices of Dentists	\$6.0	.....
621310	Offices of Chiropractors	\$6.0	.....
621320	Offices of Optometrists	\$6.0	.....
621330	Offices of Mental Health Practitioners (except Physicians)	\$6.0	.....
621340	Offices of Physical, Occupational and Speech Therapists and Audiologists	\$6.0	.....
621391	Offices of Podiatrists	\$6.0	.....
621399	Offices of All Other Miscellaneous Health Practitioners	\$6.0	.....
621410	Family Planning Centers	\$8.5	.....
621420	Outpatient Mental Health and Substance Abuse Centers	\$8.5	.....
621491	HMO Medical Centers	\$8.5	.....
621492	Kidney Dialysis Centers	\$29.0	.....
621493	Freestanding Ambulatory Surgical and Emergency Centers	\$8.5	.....
621498	All Other Outpatient Care Centers	\$8.5	.....
621511	Medical Laboratories	\$11.5	.....
621512	Diagnostic Imaging Centers	\$11.5	.....
621610	Home Health Care Services	\$11.5	.....
621910	Ambulance Services	\$6.0	.....
621991	Blood and Organ Banks	\$8.5	.....
621999	All Other Miscellaneous Ambulatory Health Care Services	\$8.5	.....
Subsector 622—Hospitals			
622110	General Medical and Surgical Hospitals	\$29.0	.....
622210	Psychiatric and Substance Abuse Hospitals	\$29.0	.....
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	\$29.0	.....
Subsector 623—Nursing and Residential Care Facilities			
623110	Nursing Care Facilities	\$11.5	.....
623210	Residential Mental Retardation Facilities	\$8.5	.....
623220	Residential Mental Health and Substance Abuse Facilities	\$6.0	.....
623311	Continuing Care Retirement Communities	\$11.5	.....
623312	Homes for the Elderly	\$6.0	.....
623990	Other Residential Care Facilities	\$6.0	.....
Subsector 624—Social Assistance			
624110	Child and Youth Services	\$6.0	.....
624120	Services for the Elderly and Persons with Disabilities	\$6.0	.....
624190	Other Individual and Family Services	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
624210	Community Food Services	\$6.0	.....
624221	Temporary Shelters	\$6.0	.....
624229	Other Community Housing Services	\$6.0	.....
624230	Emergency and Other Relief Services	\$6.0	.....
624310	Vocational Rehabilitation Services	\$6.0	.....
624410	Child Day Care Services	\$6.0	.....
Sector 71—Arts, Entertainment and Recreation			
Subsector 711—Performing Arts, Spectator Sports and Related Industries			
711110	Theater Companies and Dinner Theaters	\$6.0	.....
711120	Dance Companies	\$6.0	.....
711130	Musical Groups and Artists	\$6.0	.....
711190	Other Performing Arts Companies	\$6.0	.....
711211	Sports Teams and Clubs	\$6.0	.....
711212	Race Tracks	\$6.0	.....
711219	Other Spectator Sports	\$6.0	.....
711310	Promoters of Performing Arts, Sports and Similar Events with Facilities	\$6.0	.....
711320	Promoters of Performing Arts, Sports and Similar Events without Facilities	\$6.0	.....
711410	Agents and Managers for Artists, Athletes, Entertainers and Other Public Figures	\$6.0	.....
711510	Independent Artists, Writers, and Performers	\$6.0	.....
Subsector 712—Museums, Historical Sites and Similar Institutions			
712110	Museums	\$6.0	.....
712120	Historical Sites	\$6.0	.....
712130	Zoos and Botanical Gardens	\$6.0	.....
712190	Nature Parks and Other Similar Institutions	\$6.0	.....
Subsector 713—Amusement, Gambling and Recreation Industries			
713110	Amusement and Theme Parks	\$6.0	.....
713120	Amusement Arcades	\$6.0	.....
713210	Casinos (except Casino Hotels)	\$6.0	.....
713290	Other Gambling Industries	\$6.0	.....
713910	Golf Courses and Country Clubs	\$6.0	.....
713920	Skiing Facilities	\$6.0	.....
713930	Marinas	\$6.0	.....
713940	Fitness and Recreational Sports Centers	\$6.0	.....
713950	Bowling Centers	\$6.0	.....
713990	All Other Amusement and Recreation Industries	\$6.0	.....
Sector 72—Accommodation and Food Services			
Subsector 721—Accommodation			
721110	Hotels (except Casino Hotels) and Motels	\$6.0	.....
721120	Casino Hotels	\$6.0	.....
721191	Bed and Breakfast Inns	\$6.0	.....
721199	All Other Traveler Accommodation	\$6.0	.....
721211	RV (Recreational Vehicle) Parks and Campgrounds	\$6.0	.....
721214	Recreational and Vacation Camps (except Campgrounds)	\$6.0	.....
721310	Rooming and Boarding Houses	\$6.0	.....
Subsector 722—Food Services and Drinking Places			
722110	Full-Service Restaurants	\$6.0	.....
722211	Limited-Service Restaurants	\$6.0	.....
722212	Cafeterias	\$6.0	.....
722213	Snack and Nonalcoholic Beverage Bars	\$6.0	.....
722310	Food Service Contractors	\$17.5	.....
722320	Caterers	\$6.0	.....
722330	Mobile Food Services	\$6.0	.....
722410	Drinking Places (Alcoholic Beverages)	\$6.0	.....
Sector 81—Other Services			
Subsector 811—Repair and Maintenance			
811111	General Automotive Repair	\$6.0	.....
811112	Automotive Exhaust System Repair	\$6.0	.....

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS codes	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
811113	Automotive Transmission Repair	\$6.0	.....
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	\$6.0	.....
811121	Automotive Body, Paint and Interior Repair and Maintenance	\$6.0	.....
811122	Automotive Glass Replacement Shops	\$6.0	.....
811191	Automotive Oil Change and Lubrication Shops	\$6.0	.....
811192	Car Washes	\$6.0	.....
811198	All Other Automotive Repair and Maintenance	\$6.0	.....
811211	Consumer Electronics Repair and Maintenance	\$6.0	.....
811212	Computer and Office Machine Repair and Maintenance	\$21.0	.....
811213	Communication Equipment Repair and Maintenance	\$6.0	.....
811219	Other Electronic and Precision Equipment Repair and Maintenance	\$6.0	.....
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance.	\$6.0	.....
811411	Home and Garden Equipment Repair and Maintenance	\$6.0	.....
811412	Appliance Repair and Maintenance	\$6.0	.....
811420	Reupholstery and Furniture Repair	\$6.0	.....
811430	Footwear and Leather Goods Repair	\$6.0	.....
811490	Other Personal and Household Goods Repair and Maintenance	\$6.0	.....
Subsector 812—Personal and Laundry Services			
812111	Barber Shops	\$6.0	.....
812112	Beauty Salons	\$6.0	.....
812113	Nail Salons	\$6.0	.....
812191	Diet and Weight Reducing Centers	\$6.0	.....
812199	Other Personal Care Services	\$6.0	.....
812210	Funeral Homes and Funeral Services	\$6.0	.....
812220	Cemeteries and Crematories	\$6.0	.....
812310	Coin-Operated Laundries and Drycleaners	\$6.0	.....
812320	Drycleaning and Laundry Services (except Coin- Operated)	\$4.0	.....
812331	Linen Supply	\$12.0	.....
812332	Industrial Launderers	\$12.0	.....
812910	Pet Care (except Veterinary) Services	\$6.0	.....
812921	Photo Finishing Laboratories (except One-Hour)	\$6.0	.....
812922	One-Hour Photo Finishing	\$6.0	.....
812930	Parking Lots and Garages	\$6.0	.....
812990	All Other Personal Services	\$6.0	.....
Subsector 813—Religious, Grantmaking, Civic, Professional and Similar Organizations			
813110	Religious Organizations	\$6.0	.....
813211	Grantmaking Foundations	\$6.0	.....
813212	Voluntary Health Organizations	\$6.0	.....
813219	Other Grantmaking and Giving Services	\$6.0	.....
813311	Human Rights Organizations	\$6.0	.....
813312	Environment, Conservation and Wildlife Organizations	\$6.0	.....
813319	Other Social Advocacy Organizations	\$6.0	.....
813410	Civic and Social Organizations	\$6.0	.....
813910	Business Associations	\$6.0	.....
813920	Professional Organizations	\$6.0	.....
813930	Labor Unions and Similar Labor Organizations	\$6.0	.....
813940	Political Organizations	\$6.0	.....
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organiza- tions).	\$6.0	.....

Footnotes

1. NAICS codes 221111, 221112, 221113, 221119, 221121, and 221122—A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

2. NAICS code 237990—Dredging: To be considered small for purposes of Government procurement, a firm must perform at least 40 percent of the volume dredged with its own

equipment or equipment owned by another small dredging concern.

3. NAICS code 311421—For purposes of Government procurement for food canning and preserving, the standard of 500 employees excludes agricultural labor as defined in 3306(k) of the Internal Revenue Code, 26 U.S.C. 3306(k).

4. NAICS code 324110—For purposes of Government procurement, the firm may not have more than 1,500 employees nor more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil

or bona fide feedstocks. Capacity includes owned or leased facilities as well as facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder from either crude oil or bona fide feedstocks.

5. NAICS code 326211—For Government procurement, a firm is small for bidding on a contract for pneumatic tires within Census Classification codes 30111 and 30112, provided that:

(a) The value of tires within Census Classification codes 30111 and 30112 which it manufactured in the United States during the previous calendar year is more than 50 percent of the value of its total worldwide manufacture,

(b) The value of pneumatic tires within Census Classification codes 30111 and 30112 comprising its total worldwide manufacture during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during that period, and

(c) The value of the principal product which it manufactured or otherwise produced, or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during that period.

6. *NAICS Subsectors 333, 334, 335 and 336*—For rebuilding machinery or equipment on a factory basis, or equivalent, use the NAICS code for a newly manufactured product. Concerns performing major rebuilding or overhaul activities do not necessarily have to meet the criteria for being a “manufacturer” although the activities may be classified under a manufacturing NAICS code. Ordinary repair services or preservation are not considered rebuilding.

7. *NAICS code 336413*—Contracts for the rebuilding or overhaul of aircraft ground support equipment on a contract basis are classified under NAICS code 336413.

8. *NAICS Codes 522110, 522120, 522130, 522190, 522210 and 522293*—A financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. “Assets” for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form.

9. *NAICS code 531190*—Leasing of building space to the Federal Government by Owners: For Government procurement, a size standard of \$17.5 million in gross receipts applies to the owners of building space leased to the Federal Government. The standard does not apply to an agent.

10. *NAICS codes 488510 (part), 531210, 541810, 561510 and 561920*—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

11. *NAICS code 541710*—For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(a) “Research and Development” means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(b) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See § 121.701 of these regulations.

(c) “Research and Development” for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

12. *NAICS code 561210*—Facilities Management, a component of NAICS 561210, includes establishments, not classified elsewhere, which provide overall management and personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities Management means furnishing three or more personnel supply services which may include, but are not limited to secretarial services, typists, word processing, maintaining files and/or libraries, telephone answering, switchboard operation, reproduction or mimeograph service, mailing service, writers, bookkeeping, financial or business management, public relations, conference planning, minor office equipment maintenance and repair, use of information systems (not programming), word processing, travel arrangements, maintaining files and/or libraries.

13. *NAICS code 238990 (All Other Special Trade Contractors) and NAICS code 561210 (Facilities Support Services)*—Base Maintenance:

(a) If one of the activities of base maintenance, as defined in paragraph (b) (below in this endnote) can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(b) “Base Maintenance” requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate NAICS code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as “Base Maintenance.”

14. *NAICS 562910*—Environmental Remediation Services:

(a) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials

and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern’s total revenues, employees, or other related factors, the concern’s primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(b) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate NAICS codes or, in some instances (e.g., engineering), smaller sub-components of NAICS codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate NAICS code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

15. *Subsector 483—Water Transportation—Offshore Marine Services*: The applicable size standard shall be \$23.5 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production, or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

Dated: August 26, 2002.

Gary M. Jackson,

Assistant Administrator for Size Standards.

[FR Doc. 02–22201 Filed 9–5–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE78

Small Business Size Standards; Testing Laboratories

AGENCY: Small Business Administration (SBA).

ACTION: Notice of proposed rule; notice of reopening of the comment period.

SUMMARY: The proposed rule proposes to increase the size standard for Testing Laboratories from \$6 million to \$10 million under the North American Industry Classification System (NAICS) 541380. The proposed revision is being

made to better define the size of businesses in this industry that SBA believes should be eligible for Federal small business assistance programs. The proposed rule was published on April 9, 2002, 67 FR 17020. The comment period closed on June 10, 2002. We are reopening the comment period until September 30, 2002, because the SBA believes that affected businesses need more time to adequately respond.

DATES: The comment date for the proposed rule on the Testing Laboratories industry size standard is reopened through September 30, 2002.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, U.S. Small Business Administration, 409 Third St., SW., Mail Code 6530, Washington, DC 20416; via e-mail to SIZESTANDARDS@sba.gov; or via facsimile at (202) 205-6390. Upon request, SBA will make all public comments available.

Dated: August 27, 2002.

Fred C. Armendariz,

Associate Deputy Administrator for Government Contracting and Business Development.

[FR Doc. 02-22651 Filed 9-5-02; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS-017-FOR]

Mississippi Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of revisions to a previously proposed amendment to the Mississippi regulatory program (Mississippi program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions pertain to the definition of "immediate mining area" and provisions concerning limited use vehicular pathways. Mississippi intends to revise its program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

DATES: We will accept written comments until 4 p.m., c.d.t., September 23, 2002.

ADDRESSES: You should mail or hand deliver written comments to Arthur W. Abbs, Director, Birmingham Field Office at the address listed below.

You may review copies of the Mississippi program, the amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290-7282. Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289-1307, Telephone: (601) 961-5500.

FOR FURTHER INFORMATION CONTACT:

Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290-7282. Internet: aabbs@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program

Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a state law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Mississippi program on September 4, 1980. You can find background information on the Mississippi program, including the Secretary's findings and the disposition of comments, in the September 4, 1980, **Federal Register** (45 FR 58520). You can find later actions on the program at 30 CFR 924.10, 924.15, 924.16, and 924.17.

II. Discussion of the Proposed Amendment

By letter dated September 28, 2001 (Administrative Record No. MS-0388), Mississippi sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b).

Mississippi sent the amendment in response to our letters dated August 17, 2000, and August 23, 2000 (Administrative Record Nos. MS-0382 and MS-0381, respectively), that we sent to Mississippi in accordance with 30 CFR 732.17(c). Mississippi also sent the amendment in response to required program amendments at 30 CFR 924.16(i) and (l). Finally, the amendment included changes made at Mississippi's own initiative.

We announced receipt of the amendment in the November 2, 2001, **Federal Register** (66 FR 55611) and invited public comment on its adequacy. The public comment period closed December 3, 2001.

During our review of the amendment, we identified concerns relating to the definition of "immediate mining area," and provisions concerning limited use vehicular pathways. We notified Mississippi of these concerns by letter dated January 23, 2002 (Administrative Record No. MS-0390). By letter dated July 22, 2002, Mississippi sent us a revised amendment (Administrative Record No. MS-0394). Below is a description of the revisions Mississippi submitted.

A. Section 105, Definitions

Mississippi proposes to add language to its proposed definition of "immediate mining area" to provide that routes of travel within the immediate mining area will be either consumed by mining, reclaimed, or have design plans submitted for approval as permanent postmine features prior to phase II bond release.

B. Section 53111(a), Road Classification System

1. Paragraph (a)(4)(ii). Mississippi proposes to revise its proposed provisions at paragraph (a)(4)(ii) to provide that limited use vehicular pathways cannot have bridges or other cross-drainage structures. Previously, this proposed provision would have allowed culverts if the Department approved them prior to construction.

2. Paragraph (a)(4)(iii). Mississippi proposes to revise its proposed provision at paragraph (a)(4)(iii) to provide that limited use vehicular pathways cannot be located in and/or cross or ford any channel of an intermittent or perennial stream. Previously, this proposed provision would have allowed limited use vehicular pathways to be located in and/or cross or ford any channel of an intermittent or perennial stream if the Department approved it.

3. Paragraph (a)(5). Mississippi proposes to revise its proposed

provision at paragraph (a)(5) by removing the provision at (a)(5)(i). As proposed, this provision would have allowed limited use vehicular pathways to include water bars across the pathway and drainage ways incidental to the area. Mississippi further proposes to redesignate the provisions at paragraph (a)(5)(ii) through (iv) as new paragraphs (a)(5)(i) through (iii). Finally, Mississippi proposes to revise the provision at newly designated paragraph (a)(5)(iii) to read as follows:

(5) A limited use vehicular pathway:
(iii) will be reclassified as a road if upgraded by construction activities such as blading, construction, placement of a compacted surface, cut and fill of the natural grade, construction of drainage ditches or low water crossings, or installation of drainage structures. The submittal and approval of plans and drawings required by these regulations must be completed prior to the upgrading of a limited use vehicular pathway.

III. Public Comment Procedures

We are reopening the comment period on the proposed Mississippi program amendment to provide you an opportunity to reconsider the adequacy of the amendment in light of the additional materials sent to us. Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Mississippi program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. MS-017-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Birmingham Field Office at (205) 290-7282.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Birmingham Field Office (see

ADDRESSES). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society

and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 7, 2002.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 02-22690 Filed 9-5-02; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Parts 538, 550, and 560**

Comment Request Regarding the Effectiveness of Licensing Procedures for Exportation of Agricultural Commodities, Medicine, and Medical Devices to Sudan, Libya, and Iran

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Request for comments.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S.

Department of the Treasury is soliciting comments concerning the effectiveness of OFAC's licensing procedures implementing the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of Pub. L. 106-387, 22 U.S.C. 7201 *et seq.*) (the "Act"), for the exportation of agricultural commodities, medicine, and medical devices to Sudan, Libya, and Iran. Pursuant to section 906(c) of the Act, OFAC is required to submit a biennial report to the Congress on the operation of licensing procedures for such exports.

DATES: Written comments should be received on or before October 7, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex—2d Floor, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information about these licensing procedures should be directed to the Licensing Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., 1500 Pennsylvania Avenue, Annex—2d Floor, Washington, DC 20220, telephone: (202) 622-2480. Additional information about these licensing procedures is also available under the heading "Sanctions Program and Country Summaries" at www.treas.gov/ofac.

SUPPLEMENTARY INFORMATION: The current procedures used by the Office of Foreign Assets Control ("OFAC") for authorizing the export of agricultural commodities, medicine, and medical devices to Sudan, Libya, and Iran are set forth in 31 CFR 538.523-526, 31 CFR 550.569-573, and 31 CFR 560.530-533.

Under the provisions of section 906(c) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of Pub. L. 106-387, 22 U.S.C. 7201 *et seq.*) (the "Act"), OFAC must submit a report to the Congress on the operation, during the preceding two-year period, of the licensing procedures required by section 906 of the Act for the export of agricultural commodities, medicine, and medical devices to Sudan, Libya, and Iran. This report is to include:

- (1) The number and types of licenses applied for;
- (2) The number and types of licenses approved;
- (3) The average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) The extent to which the licensing procedures were effectively implemented; and

(5) A description of comments received from interested parties about the extent to which the licensing procedures were effective, after holding a public 30-day comment period.

This notice serves as public notice soliciting comments from interested parties regarding the effectiveness of OFAC's licensing procedures for the export of agricultural commodities, medicine, and medical devices to Sudan, Libya, and Iran.

Interested parties submitting comments are asked to be as specific as possible. All comments received on or before October 7, 2002, will be considered by OFAC in developing the report to the Congress. In the interest of accuracy and completeness, OFAC requires written comments.

Comments received after the end of the comment period will be considered, if possible, but their consideration cannot be assured. OFAC will not accept comments accompanied by a request that part or all of the comments be treated confidentially because of their business proprietary nature or for any other reason. OFAC will return such comments when submitted by regular mail to the person submitting the comments and will not consider them.

All comments made will be a matter of public record. Copies of the public record concerning these regulations may be obtained from OFAC's Web site (<http://www.treas.gov/ofac>). If that service is unavailable, written requests may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Merete Evans.

Approved: August 30, 2002.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: August 30, 2002.

Kenneth E. Lawson,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 02-22689 Filed 9-5-02; 8:45 am]

BILLING CODE 4810-25-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 152 and 158**

[OPP-2002-0171; FRL-6818-4]

RIN 2070-AC12 and 2070-AD47

Pesticide Registration Data Requirements; Notification to the Secretary of Agriculture**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notification to the Secretary of Agriculture.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretary of Agriculture a draft proposed rule as required by section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The draft proposed rule would update data requirements for conventional pesticide products to reflect current scientific knowledge and understanding and to support the Agency's mandate to better protect sensitive subpopulations from pesticide risks. The proposal would also codify existing data requirements that are applied on a case-by-case basis. Please note that the draft proposed rule is not currently publicly available. It will only become publicly available when the proposed rule is signed, at which time it will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Melissa Chun, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone number: 703-305-4027; e-mail address: chun.melissa@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does This Action Apply to Me?*

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to USDA and does not otherwise affect any specific entities. This action may, however, be of particular interest to persons who register pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or who seek a tolerance or tolerance exemption for a pesticide under the Federal Food, Drug and Cosmetic Act (FFDCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the this action,

consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information?

Electronically. You may obtain electronic copies of this **Federal Register** document from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. Please note that the draft proposed rule is not currently publicly available. It will only become publicly available when the proposed rule is signed, at which time it will be published in the **Federal Register**.

II. What Action Is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include the comments of the Secretary and the Administrator's response to those comments in the proposed rule when published in the **Federal Register**. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

III. Do Any Regulatory Assessment Requirements Apply to This Notification?

No. this document is not a proposed rule, it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Parts 152 and 158

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 28, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 02-22730 Filed 9-5-02; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 195**

[Docket No. RSPA-97-2717; Notice 1]

RIN 2137-AD10

Pipeline Safety: Recommendations To Change Hazardous Liquid Pipeline Safety Standards**AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: We are proposing to change some of the safety standards for hazardous liquid and carbon dioxide pipelines. The changes are based on recommendations by the National Association of Pipeline Safety Representatives (NAPSR). We believe the changes will improve the clarity and effectiveness of the present standards.

DATES: Persons interested in submitting written comments on the rules proposed in this notice must do so by November 5, 2002. Late filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Or you may submit written comments to the docket electronically at the following Web address: <http://dms.dot.gov>. See the **SUPPLEMENTARY INFORMATION** section for additional filing information.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow by phone at 202-366-4559, by fax at 202-366-4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC, 20590, or by e-mail at buck.furrow@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:**Filing Information, Electronic Access, and General Program Information**

All written comments should identify the docket and notice numbers stated in

the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to <http://dms.dot.gov>, click on "ES Submit." You can also read comments and other material in the docket at <http://dms.dot.gov>. General information about our pipeline safety program is available at <http://ops.dot.gov>.

Background

NAPSR is a non-profit association of officials from state agencies that participate with RSPA in the federal pipeline safety regulatory program. Each year NAPSR holds regional meetings to discuss safety and administrative issues, culminating in resolutions for program improvement.

Following NAPSR's comprehensive review of the gas pipeline safety standards in 49 CFR Part 192,¹ we asked NAPSR to begin a similar review of the hazardous liquid pipeline safety standards in 49 CFR Part 195. As with Part 192, the purpose of the Part 195 review was to identify standards that NAPSR considered unclear or hard to enforce. NAPSR compiled the results of its review in a report titled "Part 195 Project" (April 1995), a copy of which is in the docket. The report includes 30 different recommendations for changes to Part 195.

We have reviewed each recommendation to decide if rulemaking is needed. The results of that review, which led to the rule changes proposed by this notice, are discussed under the next heading. We found that 18 of the recommendations had already been adopted or proposed to be adopted in earlier rulemaking actions (No. 1, 4, 5, 6, 9, 10, 12, 15, 16, 18, 20, 21, 23, 24, 25, 26, 27, and 30). Of the remaining 12 recommendations, we are proposing to adopt 5 (No. 11, 13, 17, 19, and 28) and have declined to adopt 7 (No. 2, 3, 7, 8, 14, 22, and 29).

Disposition of NAPSR Recommendations

1. § 195.1(b)(7) Applicability

Recommendation. Exempt marine transfer piping systems that do not cross public thoroughfares.

Response. Transfer lines between vessels (e.g., ships) and port facilities

are regulated for safety by the U.S. Coast Guard. Section 195.1(b)(3)(ii) exempts from Part 195 all low-stress pipelines regulated by the U.S. Coast Guard. This exemption covers low-stress marine transfer lines. In addition, transfer lines at a marine terminals fall under the exemption in § 195.1(b)(8)(ii). This latter exemption applies to facilities at a materials transportation terminal that are used exclusively to transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. NAPSR suggested it is unclear that the term "materials transportation terminal" includes marine terminals. However, within the context of § 195.1(b)(8), the term clearly relates to non-pipeline modes of transportation, and § 195.1(b)(8)(i) identifies vessels as one of these modes. Thus, we do not think rulemaking is needed to clarify the exemption of transfer lines at marine terminals.

2. § 195.2 Definitions

Recommendation. To be consistent with the Pipeline Safety Act, define "gathering line" as a pipeline 6.625 inches or less in nominal diameter.

Response. We have not adopted this recommendation because doing so would not be consistent with the pipeline safety law. Rural gathering lines² are exempt from Part 195 (§ 195.1(b)(4)). The effect of redefining "gathering line" as NAPSR recommended would be to extend Part 195 to cover currently unregulated rural gathering lines that are larger than 6.625 inches in diameter.

RSPA's authority to regulate rural gathering lines is limited to certain lines called "regulated gathering lines," which must be defined based on various factors in addition to pipe diameter (49 U.S.C. 60101). The statutory provision we believe NAPSR had in mind merely requires that the definition of "regulated gathering line" exclude certain lines 6 inches or less in nominal diameter. This provision does not require DOT to regulate rural gathering lines larger than 6 inches in nominal diameter. We have not yet decided to regulate any rural gathering lines and so have not yet proposed to define "regulated gathering line."

3. § 195.2 Definitions

Recommendation. In the definition of "production facility," specifically

² Section 195.2 defines "gathering line" as "a pipeline 219.1 mm (8½ in) or less nominal outside diameter that transports petroleum from a production facility."

exclude storage tanks not associated with production.

Response. We have not adopted this recommendation because we feel the present definition of "production facility" clearly includes only those storage tanks that are associated with production. Not only does the definition specifically refer to "equipment used in production * * * or associated storage," but it specifically excludes equipment not "used in the process of extracting petroleum or carbon dioxide from the ground," a process generally thought of as production.

4. § 195.3 Matter Incorporated by Reference

Recommendation. Add API tank standards 650 and 653 to the list of documents incorporated by reference.

Response. Section 195.3 has been amended to include API standards 650 and 653 (64 FR 15935; Apr. 2, 1999).

5. § 195.3 Matter Incorporated by Reference

Recommendation. Clarify which parts of referenced documents are incorporated by reference.

Response. Section 195.3 has been amended to clarify which parts of documents are incorporated by reference (59 FR 33396; June 28, 1994).

6. § 195.50(e)

Recommendation. Make the hospitalization criterion for accident reporting consistent with the comparable gas pipeline reporting criterion.

Response. Section 195.50 has been amended to make the hospitalization reporting criterion consistent with comparable reporting criterion for gas pipelines (67 FR 836; Jan. 8, 2002).

7. Subpart C Design Requirements, Design Factor § 195.105

Recommendation. In furtherance of Recommendation No. 8, define class locations for hazardous liquid pipelines similar to the class location definitions for gas pipelines under 49 CFR 192.5.

Response. We have not adopted this recommendation because the need to base design requirements for hazardous liquid and carbon dioxide pipelines on class location has not been satisfactorily demonstrated. Also, the concept is controversial in view of the behavioral differences between hazardous liquid and gas pipelines. Furthermore, § 195.452, our recently published integrity management rule, requires additional safety in areas of increased population, which is what NAPSR sought to do through class location definitions.

¹ We invited the public to comment on the results of NAPSR's Part 192 review during a proceeding to eliminate overly burdensome gas pipeline safety standards (Docket PS-124; 58 FR 59431; November 9, 1993). Although in that proceeding we adopted only four of NAPSR's 34 recommendations, three more were proposed in a proceeding to update regulations (65 FR 15290; Mar 22, 2000), and we are actively considering the rest for further rulemaking.

8. § 195.106 *Internal Design Pressure*

Recommendation. Establish design safety factors based on class location and temperature similar to the factors required for gas pipelines.

Response. As stated in the response to Recommendation No. 7, the need to base design requirements for hazardous liquid and carbon dioxide pipelines on class location has not been satisfactorily demonstrated. Also, there is no need to establish temperature derating factors for hazardous liquid and carbon dioxide pipelines like those for gas pipelines in 49 CFR 192.115. As indicated by the table of factors in § 192.115, the properties of pipeline steel are not affected by temperatures as high as 250°F. While the heat of compression may cause gas pipelines to exceed this temperature, the operation of hazardous liquid and carbon dioxide pipelines does not cause the pipeline temperature to exceed 250°F. This difference is recognized by the American Society of Mechanical Engineers (ASME). The ASME B31.8 Code for gas pipelines includes a temperature derating factor in the design formula for steel pipe, but the ASME B31.4 Code for petroleum pipelines does not include a temperature derating factor in the design formula for steel pipe.

9. § 195.132 *Aboveground breakout tanks*

Recommendation. Require tank design according to API 650.

Response. Section 195.132 has been amended to require tank design according to API 650 (64 FR 15935; Apr. 2, 1999).

10. § 195.214 *Welding: General*

Recommendation. Reference API 1104 and ASME Boiler & Pressure Vessel Code, Section IX, as welding procedure qualification standards.

Response. In a notice of proposed rulemaking entitled "Pipeline Safety: Periodic Updates to Pipeline Safety Regulations" (65 FR 15290; Mar. 22, 2000), we proposed to amend § 195.214 by incorporating by reference Section 5 of API 1104 and Section IX of ASME Boiler & Pressure Vessel Code as standards for qualifying welding procedures.

11. § 195.222 *Welders: Qualification of Welders*

Recommendation. Require continuing qualification of welders.

Response. Paragraph 434.8.3(c) of ASME B31.4 requires requalification of welders who have not engaged in a particular welding process for a period of 6 months or more. Similarly, our gas pipeline safety regulations (49 CFR Part

192) do not allow a welder to weld with a particular process unless the welder has welded with that process within the previous 6 months (§ 192.229(b)). Further, within the previous 6 months, each welder must have had one weld tested and found acceptable under API 1104 (§ 192.229(c)(1)).³

In the interest of making our gas and hazardous liquid pipeline regulations consistent as far as practical, we are proposing to amend § 195.222 as NAPSRS recommended. In view of the B31.4 requirement for welder requalification, which generally represents current industry safety practices, the proposed amendment should not significantly increase the costs of compliance. Moreover, companies that operate both regulated gas and hazardous liquid pipelines may find regulatory consistency advantageous because it may ease the transfer of welders from liquid to gas pipelines.

12. § 195.228 *Welds and Welding Inspection: Standards of Acceptability*

Recommendation. Require tank welding according to API 650.

Response. Section 195.132 has been amended to require tank construction, which includes welding, according to API 650 (64 FR 15935; Apr. 2, 1999).

13. § 195.252 *Backfilling*

Recommendation. Require backfilling to be performed according to the standards for gas pipelines to guard against structural damage.

Response. NAPSRS reported that inspections of pipelines using instrumented internal inspection devices have identified many deleterious dents and gouges due to poor quality backfill material adversely affecting the pipeline. Paragraph 434.11 of B31.4 requires that backfilling must provide firm support for the pipe and prevent damage to the pipe and coating. A similar requirement is in effect for gas pipelines (§ 192.319(b)) and for hazardous liquid and carbon dioxide pipelines (§ 195.252). However, § 192.319(b) specifically states that pipe and coating are not to be damaged by either the backfilling equipment or material.

We agree with NAPSRS that this more specific wording has the potential to increase safety for hazardous liquid and carbon dioxide pipelines, particularly in light of the requirement in § 195.204 that pipe installation must be inspected for compliance with Part 195. Therefore,

³ Because of the large amount of low-stress distribution lines, welder qualification standards in §§ 192.227 and 192.229 allow alternative means of qualifying welders on low-stress pipe.

we are proposing to replace § 195.252 with the standards in § 192.319(b). Because this proposal merely clarifies an existing requirement, there should not be any increased cost of compliance.

NAPSRS further suggested we require that backfill material be free of objects which may cause damage to the pipe or pipe coating. We did not adopt this suggestion because such material may not always be readily available in the quantity needed to fill the ditch. Under § 192.319(b) and the proposed rule, material with potentially damaging rocks may be used in backfilling, but only if damage to the pipe or coating is prevented by means such as a sufficient initial layer of material that is free of potentially damaging rocks.

14. § 195.260 *Valves: Location*

Recommendation. Establish a 10-mile maximum distance between shutoff valves to minimize the adverse effects of spills.

Response. To minimize the effects of spills, remote-control or automatic shut-off valves and a leak detection system are needed. In Docket PS-93, Notice 2, we concluded that there was insufficient justification to require the installation of remote-control or automatic shut-off valves at uniform intervals along gas and hazardous liquid pipelines (55 FR 23514; June 8, 1990). Subsequently, we completed a study required by the Pipeline Safety Reauthorization Act of 1988 on the feasibility and effectiveness of installing remote-control or check valves in certain circumstances. This study, "Emergency Flow Restricting Devices Study" (March, 1991), and our further assessment of remote control valves and associated means to minimize product releases (Docket No. PS-133) (59 FR 2802; January 19, 1994; and 60 FR 44822; August 29, 1995) provided the basis for a new integrity management rule in § 195.452(i) (65 FR 75408; Dec. 1, 2000). This new rule requires operators to install remote control or check valves in particular circumstances to protect high consequence areas. In view of our previous decision against requiring operators to install uniformly spaced valves and the lack of any new information to the contrary, we have not adopted NAPSRS's valve spacing recommendation. However, we feel the new requirement in § 195.452(i) substantially resolves the safety concern that caused NAPSRS to make the recommendation.

15. § 195.264 *Construction-Breakout Tanks*

Recommendation. Require tank construction according to API 650.

Response. Section 195.132 has been amended to require tank construction according to API 650 (64 FR 15935; Apr. 2, 1999).

16. § 195.302(c) Hydrostatic Testing

Recommendation. Require tank testing according to API 650.

Response. Section 195.307(c) has been established to require hydrostatic testing of tanks according to API 650 (64 FR 15936; Apr. 2, 1999).

17. § 195.310 Hydrostatic Test Records

Recommendation. Require hydrostatic test records to include temperature of the test medium or pipe.

Response. We agree with NAPSRS that temperature data are an important consideration in determining the validity of a hydrostatic test. A pressure drop due to a decrease in temperature during the test period could be incorrectly seen as a leak. More important, a pressure rise due to an increase in temperature could hide the indication of a small leak.

Therefore, it is necessary to mathematically account for any temperature-related pressure change to ensure the absence of leaks during the test. Operators customarily collect temperature data and make such calculations during hydrostatic tests.

The main purpose of keeping test records is to show compliance with the testing requirements, one of which is to maintain the test pressure without leakage (§ 195.302(a)). NAPSRS's recommendation is consistent with this objective. Adopting the recommendation should not increase costs significantly because operators commonly collect temperature data. Therefore, we are proposing to amend § 195.310 to require operators to include relevant temperature data among their test records.

18. § 195.401(b) Continuing Surveillance and Risk Management Programs

Recommendation. Require a risk-based continuing evaluation program to assure pipeline integrity.

Response. Section 195.452 requires operators to undertake a continual process of assessment and evaluation of integrity threats as part of a risk-based integrity management program.

19. § 195.403 Training

Recommendation. Clarify the training required for personnel to evaluate and respond to fire emergencies.

Response. We agree with NAPSRS that § 195.403(a)(5), which requires operators to train personnel in "the proper use of firefighting procedures

and equipment, fire suits, and breathing apparatus," is unclear regarding the level of training required for firefighting. We also agree that the terms "fire suit" and "breathing apparatus" are ambiguous, and using such gear with inadequate training could be harmful to personnel and unnecessarily delay or impede response by fully trained firefighters.

Therefore, as NAPSRS recommended, we are proposing to amend § 195.403(a)(5) to require that emergency response training include basic evaluation of fire hazards and the appropriate use of portable fire extinguishers and other on-site fire control equipment. We did not include in the proposed rule several other items NAPSRS recommended (response appropriate to the situation, contacting the fire department, evacuating people from the immediate area, closing valves which could supply fuel to the fire, and coordination with emergency responders such as firefighters) because they are covered by existing regulations. Under §§ 195.402(e) and 195.403(a)(1), operators must develop procedures for handling these items and then train personnel to carry out the procedures.

20. § 195.406 MOP

Recommendation. For pipelines existing before Part 195 took effect that transport hazardous liquids that are not highly volatile, allow the maximum operating pressure to be set at 80 percent of past pressure in lieu of testing under Subpart E.

Response. Section 195.406(a)(5) allows all older hazardous liquid pipelines to be operated at 80 percent of a qualified past pressure in lieu of testing under Subpart E.

21. Subpart F, Part 195, Operation and Maintenance

Recommendation. Establish definite requirements for abandoning pipelines; apply these requirements to any temporarily idle, inactive, or out-of-service pipeline not maintained under Part 195; and apply the requirements for converted pipelines (§ 195.5) to abandoned pipelines that are returned to service.

Response. Section 195.402(c)(10), which requires operators to establish and follow procedures for abandoning pipelines, covers the essence of NAPSRS's recommendation with respect to abandoning pipelines. Those procedures are subject to review and amendment by federal and state government inspectors. We believe these existing requirements are sufficient and substantially satisfy

NAPSRS's recommendation to establish definite requirements for abandonment.

Regarding pipelines temporarily removed from service, if the pipeline continues to contain a potentially harmful quantity of hazardous liquid or carbon dioxide, we consider it to be used in transportation and subject to the operation and maintenance requirements of Part 195, including corrosion control and routine surveys. If no potentially harmful quantity of hazardous liquid or carbon dioxide remains in the pipeline, we do not consider it to be in use, and the pipeline need not meet the operation and maintenance requirements while it is not used in transportation. However, before returning the pipeline to service, the operator must ensure that it fully complies with the operation and maintenance requirements. NAPSRS recommends that if an operator defers maintenance on a temporarily out-of-service pipeline, the pipeline should be disconnected, purged, and sealed as if it were abandoned. Considering the low risk involved (given the absence of a potentially harmful quantity of hazardous liquid or carbon dioxide), and the temporary out-of-service status of the pipeline, we do not think such additional requirements are needed for safety or environmental protection. Furthermore, under § 195.402, operators' operation and maintenance manuals should contain procedures for the safe temporary removal of a pipeline from service and for responding to any inadvertent operation of the pipeline while it is out of service. Thus, we have not adopted NAPSRS's recommendation regarding out-of-service pipelines.

Any pipeline that is abandoned under Part 195 and later returned to Part 195 service would have to fully comply with the operation and maintenance requirements upon its return to service. NAPSRS recommends that, in addition, we require such pipelines to meet the § 195.5 conversion requirements, which entail review of operation and maintenance records, visual inspections, and strength testing. But compliance with the operation and maintenance standards would involve a records review to learn which recurring inspections and tests must be performed. And visual inspections of rights-of-way and aboveground facilities would also be required. Although the operation and maintenance standards do not require visual inspection of selected portions of buried pipelines as § 195.5 does, if a recommissioned abandoned pipeline affects a high consequence area, the operator would have to pressure test or internally inspect the pipeline in accordance with

the schedule required by § 195.452. In addition, upon return to service, every abandoned pipeline must meet the strength testing requirements of § 195.302 or § 192.303. Given that abandoned pipelines are not often returned to service and the lack of reported accidents attributable to recommissioned abandoned pipelines, we do not think rulemaking is needed at this time. Thus, we have not adopted NAPSRS's recommendation to apply § 195.5 to abandoned pipelines that are recommissioned.

22. § 195.412(b)

Recommendation. Add a 6-month grace period to the maximum 5-year interval between inspections of water crossings to account for flood disturbances.

Response. We believe that 5 years allows operators enough time to schedule inspections to avoid anticipated periods of flooding. If unanticipated flooding precludes a scheduled inspection, in enforcing § 195.412(b) we would allow the operator a reasonable time to conduct the inspection, and we encourage participating state agencies to do likewise. Adding 6 months to the maximum interval between inspections would not necessarily alleviate the problem of unanticipated flooding. Therefore, we have not adopted NAPSRS's recommendation.

23. § 195.414 Cathodic Protection

Recommendation. Establish criteria for the adequacy of cathodic protection.

Response. New § 195.571 incorporates by reference paragraphs 6.2 and 6.3 of NACE Standard RP0169-96 as criteria for cathodic protection (66 FR 67005; Dec. 27, 2001).

24. § 195.416 External Corrosion Control

Recommendation. Require prompt action to correct corrosion control deficiencies.

Response. New § 195.573(e) requires operators to correct identified corrosion control deficiencies within the times allowed by § 195.401(b) or § 195.452(h), as applicable (66 FR 67006; Dec. 27, 2001).

25. Subpart F, Part 195, Operation and Maintenance Upgrading

Recommendation. Establish steps to follow in uprating a pipeline, or increasing its maximum operating pressure (MOP).

Response. The Part 195 regulations that apply to uprating are §§ 195.402 and 195.406. Under § 195.402, operators must have and follow procedures for

normal operations. Since uprating is a normal operation, if an operator uprates a pipeline, the operator's procedures for normal operations must cover uprating. In addition to these procedures, § 195.406 limits any uprated MOP to the lowest pressure among five parameters.

NAPSRS's report suggests that more specific requirements for uprating are needed, like those for gas pipelines in Part 192. However, the report does not explain why the present regulations are inadequate, and we are not aware of any accidents related to inappropriate uprating procedures. Although the report indicates that a few operators may not fully understand the present requirements, we do not feel lack of knowledge is sufficient reason to make the regulations more detailed. Therefore, we have not adopted the recommendation.

26. § 195.428 Overpressure safety devices

Recommendation. Specifically require testing of thermal relief valves at maximum 3-year intervals.

Response. Section 195.428 requires annual inspection and testing of "relief valves." We believe this term is generally understood to mean a valve designed to open or close a vent when a preset pressure or temperature is reached. Although NAPSRS may be correct that most operators do not consider thermal relief valves to be pressure control devices, § 195.428 distinguishes pressure control devices from relief valves. Because we believe thermal relief valves, or relief valves set to function at preset temperatures, are covered by the existing inspection and testing requirements in § 195.428, we do not think specific treatment of thermal relief valves is necessary. Nor do we think there is a need to relax those requirements by allowing thermal relief valves to be inspected and tested at 3-year intervals instead of annually. Therefore, we have not adopted the recommendation.

27. § 195.432 Breakout Tanks

Recommendation. Require tank inspection according to API 653.

Response. Section 195.432 has been amended to require tank inspection according to Section 4 of API 653 (64 FR 15936; April 2, 1999).

28. § 195.434 Signs

Recommendation. Clarify that the emergency telephone number on signs at pump station and breakout tank areas is a number where the operator is always available.

Response. Section 195.434 requires that publicly visible signs around each

pump station and breakout tank area display "the name of the operator and an emergency telephone number to contact." Undoubtedly the purpose of the number is to enable the public to notify the operator of an emergency involving the area. However, NAPSRS reported that in many instances the number could not always be used for that purpose because it did not reach the operator at all times. We agree that clarification would be helpful, particularly since a similar requirement governing line marking signs specifically states that the telephone number must be one "where the operator can be reached at all times" (§ 195.410(a)(2)(ii)). Therefore, we are proposing to change § 195.434 to make the telephone number requirement consistent with a similar requirement under § 195.410(a)(2)(ii).

29. § 195.438 Smoking or Open Flame

Recommendation. Require operators to post "no smoking" signs in certain locations in pump station and breakout tank areas.

Response. Section 195.438 requires operators to prohibit smoking in certain locations in pump station and breakout tank areas. While some operators may comply by posting signs in those locations, others may comply by prohibiting smoking throughout the entire area or by limiting smoking to a designated location. NAPSRS's recommendation would narrow the range of possible compliance options for no reason other than "no smoking" signs are not mandatory under § 195.428. We are not aware of any fires caused by smoking in pump station and breakout tank areas that might warrant rulemaking action. Also the efficacy of signs in preventing smoking in pump station and breakout tank areas was not discussed and may be uncertain. Thus, we have not adopted the recommendation.

30. § 195.440 Public Education

Recommendation. Require an annual review of programs designed to educate the public to recognize and report hazards and emergencies.

Response. Section 195.402(c)(3) requires each operator to have and follow procedures for carrying out the operation and maintenance requirements of Part 195, including the requirements for public education under § 195.440. Moreover, § 195.402(a) requires operators to review their procedures annually and modify them if necessary for effectiveness. We believe these existing requirements satisfy NAPSRS's recommendation regarding

annual reviews of public education programs.

NAPSR's recommendation closely parallels the National Transportation Safety Board's recommendation (P-98-38) that operators periodically evaluate the effectiveness of their public education programs using scientific techniques. In response to that recommendation, we are working with the Common Ground Alliance to develop guidelines operators may use in evaluating the effectiveness of their public education programs. In addition, we are working with industry trade associations to develop consensus standards that operators can use to improve their public education programs. To this end, we invited the public to participate in this voluntary standards-setting effort (67 FR 34754; May 15, 2002). Upon completion of these activities, we will decide if regulatory changes are needed regarding public education programs.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures. RSPA does not consider this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this rulemaking to review. RSPA also does not consider this proposed rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

We prepared a Draft Regulatory Evaluation of the proposed rules and a copy is in the docket. The evaluation concludes there should be only minimal additional cost, if any, for operators to comply with the proposed rules. If you disagree with this conclusion, please provide information to the public docket described above.

Regulatory Flexibility Act. The proposed rules are consistent with customary practices in the hazardous liquid and carbon dioxide pipeline industry. Therefore, based on the facts available about the anticipated impacts of this proposed rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this proposed rulemaking would not have a significant impact on a substantial number of small entities. If you have any information that this conclusion about the impact on small entities is not correct, please provide that information to the public docket described above.

Executive Order 13084. The proposed rules have been analyzed in accordance with the principles and criteria

contained in Executive Order 13084, "Consultation and Coordination with Indian Tribal Governments." Because the proposed rules would not significantly or uniquely affect the communities of the Indian tribal governments and would not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Paperwork Reduction Act

Title: Transportation of Hazardous Liquids by Pipeline Recordkeeping and Accident Reporting Requirements. OMB Number: 2137-0047

Summary: Section 195.310(b)(10) proposes minor additional information collection requirements to an already existing information collection requirement. Operators would be required to record the temperature during testing and keep the records for as long as the pipeline concerned is in service. However, we believe most operators already maintain records of temperature. Also, we believe the burden of retaining temperature records would be minimal. These records are largely computerized. Maintaining these records on a floppy disk or computer file represents very minimal costs. Because the additional paperwork burdens of this proposed rule are likely to be minimal, we believe that submitting an analysis of the burdens to OMB under the Paperwork Reduction Act is unnecessary. If you disagree with this conclusion, please submit your comments to the public docket.

Use: Records are kept to help RSPA determine compliance with pipeline safety requirements.

Respondents (including the number of): There are 200 hazardous liquid pipeline operators that could potentially be subject to this proposed rule.

Annual Burden Estimate: 51,011 hours per year.

Frequency: Variable.

Unfunded Mandates Reform Act of 1995. This proposed rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act. We have analyzed the proposed rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the proposed rules parallel present requirements or practices, we have preliminarily determined that the proposed rules

would not significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket. A final determination on environmental impact will be made after the end of the comment period. If you disagree with our preliminary conclusion, please submit your comments to the docket as described above.

Impact on Business Processes and Computer Systems. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to "Y2K" or related computer problems. The proposed rules would not mandate business process changes or require modifications to computer systems. Because the proposed rules would not affect the ability of organizations to respond to those problems, we are not proposing to delay the effectiveness of the requirements.

Executive Order 13132. The proposed rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The proposed rules do not propose any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, RSPA proposes to amend 49 CFR part 195 as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Amend § 195.222 as follows:
a. Redesignate the existing text as paragraph (a); and
b. Add paragraph (b) to read as follows:

§ 195.222 Welders: Qualification of welders.

* * * * *

(b) No welder may weld with a particular welding process unless,

within the preceding 6 calendar months, the welder has—

- (1) Engaged in welding with that process; and
 - (2) Had one weld tested and found acceptable under Section 6 of API 1104.
3. Revise § 195.252 to read as follows:

§ 195.252 Backfilling.

When a ditch for a pipeline is backfilled, it must be backfilled in a manner that:

- (a) Provides firm support under the pipe; and
- (b) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.

4. Amend § 195.310 as follows:

- a. Remove the word “and” at the end of paragraph (b)(8);
- b. Remove the period at the end of paragraph (b)(9) and add “; and” in its place; and
- c. Add paragraph (b)(10) to read as follows:

§ 195.310 Records.

* * * *

(b) * * *

(10) Temperature of the test medium or pipe during the test period.

5. Revise § 195.403(a)(5) to read as follows:

§ 195.403 Training.

(a) * * *

(5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.

* * * *

6. Revise § 195.434 to read as follows:

§ 195.434 Signs.

Each operator must maintain signs visible to the public around each pumping station and breakout tank area. Each sign must contain the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

Issued in Washington, DC on August 29, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.
[FR Doc. 02–22735 Filed 9–5–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571, 580, 581, 582, 583, 584, 585, 586, 587, and 588

[Docket No. NHTSA–02–13206]

Federal Motor Vehicle Safety Standards (FMVSS); Small Business Impacts of Motor Vehicle Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of regulatory review; request for comments.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) seeks comments on the economic impact of its regulations on small entities. As required by Section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, motorcycles, and motor vehicle equipment.

DATES: Comments must be received on or before September 20, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. You may call Docket Management at: (202) 366–9324. You may visit the Docket from 10 am to 5 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nita Kavalauskas, Office of Regulatory Analysis, Office of Planning, Evaluation and Budget, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Facsimile (fax): (202) 366–2559.

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial

number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on November 22, 1999, listing in Appendix D (64 FR 64684) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The National Highway Traffic Safety Administration (NHTSA, “we”) has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and a Review Year. For purposes of these reviews, a year will coincide with the fall-to-fall publication schedule of the Semiannual Regulatory Agenda. Thus, Year 1 (1998) began in the fall of 1998 and ended in the fall of 1999; Year 2 (1999) began in the fall of 1999 and ended in the fall of 2000; and so on.

During the Analysis Year, we will request public comment on and analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area

affected by the rule. At the end of the Review Year, we will publish the results of our review.

The schedule has been revised from its listing in the Semiannual Regulatory

Agenda on November 22, 1999. A major revision to Parts 591 through 594 has been proposed. Thus, we deemed it appropriate to delay our small business impact review of these parts from year

3 to year 8, and move the other regulations forward one year.

The following table shows the 10-year analysis and review schedule:

NHTSA SECTION 610 REVIEW PLAN¹

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 501 through 526 and 571.213	1998	1999
2	49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222	1999	2000
3	49 CFR 571.101 through 571.110 and 571.135	2000	2001
4	49 CFR parts 529 through 579, except part 571	2001	2002
5	49 CFR 571.111 through 571.129 and parts 580 through 590	2002	2003
6	49 CFR 571.201 through 571.212	2003	2004
7	49 CFR 571.214 through 571.219, except 571.217	2004	2005
8	49 CFR parts 591 through 594	2005	2006
9	49 CFR 571.223 through 571.304, part 500 and new parts and subparts under 49 CFR	2006	2007
10	23 CFR parts 1200 and 1300 and new parts and subparts under 23 CFR	2007	2008

¹ Revised schedule.

C. Regulations Under Analysis

During Year 5 (2002), the Analysis Year, we will conduct a preliminary assessment of the following sections of 49 CFR parts 571 and 580 through 588:

Section	Title
571.111	Rearview mirrors.
571.112	[Reserved].
571.113	Hood latch system.
571.114	Theft protection.
571.115	[Reserved].
571.116	Motor vehicle brake fluids.
571.117	Retreaded pneumatic tires.
571.118	Power-operated window, partition, and roof panel systems.
571.119	New pneumatic tires for vehicles other than passenger cars.
571.120	Tire selection and rims for motor vehicles other than passenger cars.
571.121	Air brake systems.
571.122	Motorcycle brake systems.
571.123	Motorcycle controls and displays.
571.124	Accelerator control systems.
571.125	Warning devices.
571.126	[Reserved].
571.127	[Reserved].
571.128	[Reserved].
571.129	New non-pneumatic tires for passenger cars.
580	Odometer disclosure requirements.
581	Bumper standard.
582	Insurance cost information regulation.
583	Automobile parts content labeling.
585	Advanced air bag phase-in reporting requirements.
586	Side impact phase-in reporting requirements.
587	Deformable barriers.
588	Child restraint systems recordkeeping requirements.

We are seeking comments on whether any requirements in parts 571 and 580 through 588 have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Business entities are generally defined as small businesses by Standard Industrial Classification (SIC) code, for the purposes of receiving Small Business Administration (SBA) assistance. Size standards established by SBA in 13 CFR 121.201 are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small. If your business or organization is a small entity and if any of the requirements in parts 571 and 580 through 588 have a significant economic impact on your business or organization, please submit a comment to explain how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

If the agency determines that there is a significant economic impact on a substantial number of small entities, it will ask for comment in a subsequent notice during the Review Year on how these impacts could be reduced without reducing safety.

II. Plain Language

A. Background and Purpose

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews over a ten-year period on a schedule consistent with the section 610 review schedule. We will review parts 571 and 580 through 588 to determine if these regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as for putting information in tables that may make the regulations easier to use.

Comments*How Do I Prepare and Submit Comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing your comments electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

(2) On that page, click on "search."

(3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the "pdf" versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Rose A. McMurray,

Associate Administrator for Planning, Evaluation and Budget.

[FR Doc. 02-22703 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-59-P

Notices

Federal Register

Vol. 67, No. 173

Friday, September 6, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: October 9, 2002 (9 a.m. to 5 p.m.).

Location: National Press Club, 529 14th St., NW., 13th Floor, Washington, DC.

This meeting will feature discussion of the Administration's development assistance initiatives, including the Millennium Challenge Account, the Global Development Alliance, and four major partnerships announced at the World Summit on Sustainable Development. Participants will have an opportunity to ask questions of the speakers and to discuss the issues in more depth in small groups.

The meeting is free and open to the public. Persons wishing to attend the meeting can fax or e-mail their name to Larritus Jackson, 202-347-9212, pvcsupport@datexinc.com.

Dated: August 28, 2002.

Noreen O'Meara,

Executive Director, Advisory Committee on Voluntary Foreign Aid (ACVFA).

[FR Doc. 02-22673 Filed 9-5-02; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency; Notice of Availability of the Draft Programmatic Environmental Impact Statement for the Conservation Reserve Program

AGENCY: Commodity Credit Corporation; Farm Service Agency, USDA.

ACTION: Notice of availability of the Draft Programmatic Environmental Impact Statement.

SUMMARY: The Commodity Credit Corporation and the Farm Service Agency announce the availability of the draft Programmatic Environmental

Impact Statement (PEIS) for the Conservation Reserve Program (CRP). The draft PEIS assesses the potential environmental impacts of alternatives to be considered in the administration of the CRP. The draft PEIS also provides a means for the public to voice any concern they may have about the program and any ideas for improving it. This Notice of Availability informs the public that the draft PEIS is available and solicits public comment.

DATES: FSA invites comments on the draft PEIS. Comments should be submitted by close of business on October 21, 2002, to ensure consideration. Comments submitted after this date will be considered to the extent possible.

ADDRESSES: Written comments on and requests for copies of the draft PEIS should be directed to CRP PEIS, P.O. Box 6830, Falls Church, VA 22204-6830, CRP@mangi.com or telephone (toll free) 1-877-271-3842. The draft PEIS is available on the FSA Worldwide Web site, in Adobe Acrobat (.pdf) format, at: <http://www.fsa.usda.gov/daftp/cepd/epb>.

FOR FURTHER INFORMATION CONTACT: Don Steck, USDA/FSA/CEPD/Stop 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513, (202) 690-0224, or e-mail at:

don_steck@wdc.usda.gov or CRP@mangi.com. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD). More detailed information on these programs may also be obtained from the FSA Worldwide Web site at: <http://www.fsa.usda.gov/pas/default.asp> (general), <http://www.fsa.usda.gov/daftp/cepd/default.htm> (CRP and CREP).

Signed in Washington DC, on August 29, 2002.

James R. Little,

Administrator, FSA, Executive Vice President, CCC.

[FR Doc. 02-22670 Filed 9-5-02; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Forest Service

Salmon Wild and Scenic River Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a Draft Supplemental Environmental Impact Statement.

SUMMARY: The Salmon-Challis National Forest, will prepare a Draft Supplemental Environmental Impact Statement (DSEIS) in order to make a new decision on the Salmon Wild and Scenic River Management Plan. On September 21, 2001, a Record of Decision (ROD) was signed that selected Alternative 4, which provided for temporary outfitter and guide use at the Stub Creek, Arctic Creek and Smith Gulch camps. It also required removal of all permanent structures and facilities at those three camps by December 31, 2002. During the appeal of that decision, the permittees brought forward additional economic information showing economic impacts to them associated with the December 31, 2002 removal date. This DSEIS will reevaluate impacts to permittees and consider a possible change of camp removal to a later date.

DATES: Written comments must be received on or before 45 days after the Notice of Availability is published in the **Federal Register**. The expected deadline for receipt of public comments will be approximately November 8, 2002.

ADDRESSES: Submit written comments concerning this notice to Patricia Pearson, Project Coordinator, Salmon-Challis National Forest, 50 Hwy 93 South, Salmon, Idaho, 83467.

FOR FURTHER INFORMATION CONTACT: Patricia Pearson at (208) 756-5148.

SUPPLEMENTARY INFORMATION:

Background

The Central Idaho Wilderness Act (CIWA) designated 79 miles of the Salmon River stretching from Wheat Creek to Long Tom Bar as "Wild" and directed that the river corridor be managed under the provision of the Wild and Scenic Rivers Act (WSRA). Three private camps are located within this Wild segment: Arctic Creek, Stub Creek and Smith Gulch. The owner and

permittee for Arctic Creek is Jack Smith; for Stub Creek it is Dale Stansberry and for Smith Gulch it's Whitewater Water West (owners Mr. and Mrs. Gail Watt and Mr. and Mrs. Stanford H. Watt). The camp names will be used when referring to the permittees.

1995 Final Environmental Impact Statement and Record of Decision

In two previous court orders the Forest Service was directed to prepare an Environmental Impact Statement (EIS) for the Salmon Wild & Scenic River Management Plan Revision specifically focused on use of these three camps. The Forest completed the EIS and the first Salmon Wild and Scenic River Record of Decision (ROD) was approved on June 5, 1995. That ROD authorized use and occupancy of the three private camps through the year 2010. The decision was both appealed and litigated.

2001 Supplemental Information Report and Record of Decision

On September 19, 2000, the Court issued a decision that use of the three private camps was not consistent with the WSRA. The Court remanded the decision to the Forest Service to fashion a remedy consistent with the court opinion. In 2001 the Forest updated the 1995 EIS with a Supplemental Information Report (SIR). The SIR reviewed the existing analysis in the 1995 EIS to determine if there was any new information and if the conclusions regarding environmental effects remained the same. A second ROD was approved on September 19, 2001 selecting Alternative 4 of the 1995 FEIS. That decision authorized the use of temporary outfitter camps at three campsites and set the date of December 31, 2002 for removal of all permanent facilities at Arctic Creek, Stub Creek and Smith Gulch.

The 2001-ROD was appealed by the permittees. The Appeal Reviewing Officer affirmed the decision, but directed the Forest Service to reconsider the timeline for removal with better consideration of the individual appellants' interests, to evaluate whatever economic and operational information the appellants provided regarding their interests, and to determine if it necessitated a change in the Decision.

Timelines

The DSEIS is expected to be available for public review early in September 2002. The comment period on the DSEIS will be 45 days from the date of the **Federal Register** notice. It is very important that those interested in this

proposal participate at that time. To be most helpful, comments on the DSEIS should be as specific as possible. The Final Supplemental EIS (FSEIS) is anticipated to be completed in November 2002, after comments are reviewed. At that time, we will release the FSEIS along with the Record of Decision (ROD). A 45-day appeal period will follow as required by the 215 regulations. Implementation will be 5 days following release of the ROD if not appealed or after a favorable appeal decision.

Submitting Comments

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Authority

The Salmon-Challis National Forest Supervisor has determined that preparation of a Supplemental EIS (Draft and Final) is required in order to make a new decision, under CEQ regulations implementing the National Environmental Policy Act (40 CFR 1501-1508).

Responsible Official

I am the responsible official for this Draft Supplemental Environmental Impact Statement. My address is Salmon-Challis National Forest, 50 Hwy 93 South, Salmon, Idaho 83467.

Dated: August 26, 2002.

George Matejko,

Forest Supervisor, Salmon-Challis National Forest.

[FR Doc. 02-22681 Filed 9-5-02; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee meeting

AGENCY: North Central Idaho Resource Advisory Committee, Grangeville, Idaho, USDA, Forest Service.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92-463) and under the Secure Rural Schools and Community Self Determination Act of 2000 (Public Law 106-393) the Nez Perce and

Clearwater National Forests' North Central Idaho Resource Advisory Committee will meet Tuesday, October 8, 2002 in Moscow, Idaho for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on October 8 begins at 10 a.m., in Room 207, Latah County Courthouse, 522 S. Adams Street, Moscow, Idaho 83843. Agenda topics will include discussion of project screening and selection process. A public forum will begin at 2:30 p.m. (PST).

FOR FURTHER INFORMATION CONTACT: Thor Mereszczak, Staff Officer and Designated Federal Officer, at (208) 983-1950.

Dated: August 29, 2002.

Ihor Mereszczak,

Acting Forest Supervisor.

[FR Doc. 02-22676 Filed 9-5-02; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on September 17 and 25 at 6:30 p.m. in Thompson Falls, Montana for business meetings. The meetings are open to the public.

DATES: September 17 and 25, 2002.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Lisa Krueger, Designated Forest Official (DFO), District Ranger Plains/Thompson Falls District, Lolo National Forest at (406) 826-4321, or Brian Avery, District Ranger Cabinet Ranger District, Kootenai National Forest at (406) 827-3533.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing project proposals and receiving public comment. If the meeting location is changed, notice will be posted in the local newspapers, including the Clark

Fork Valley Press, Sanders County Ledger, Daily Interlake, Missoulain, and River Journal.

Dated: August 28, 2002.

Lisa Krueger,

Designated Federal Official, District Ranger, Plains/Thompson Falls Ranger District.

[FR Doc. 02-22682 Filed 9-5-02; 8:45 am]

BILLING CODE 3410-11-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: October 6, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Janitorial/Custodial, Center for Disease Control—NIOSH, Spokane Research Laboratory, Spokane, Washington

NPA: Pre-Vocational Training Center, Spokane, Washington

Contract Activity: Center for Disease Control—NIOSH, Spokane, Washington

Service Type/Location: Janitorial/Custodial, U.S. Attorney Building, Springfield, Illinois

NPA: Challenge Unlimited, Inc., Alton, Illinois

Contract Activity: GSA Public Buildings Service, Springfield, Illinois

Service Type/Location: Pest Control, Naval Base Ventura County, Ventura, California

NPA: PRIDE Industries, Roseville, California

Contract Activity: ROICC/Naval Base Ventura County, Point Mugu, California

Service Type/Location: Recycling, End of Life Electronics, U.S. Mint, Washington, DC

NPA: ServiceSource, Inc., Alexandria, Virginia

Contract Activity: U.S. Mint, Washington, DC

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for deletion from the Procurement List.

The following products have been proposed for deletion from the Procurement List:

Products

Product/NSN: Clamp, Loop/5340-00-410-2973

Product/NSN: Clamp, Loop/5340-01-120-1320

Product/NSN: Clamp, Loop/5340-01-413-2977

Product/NSN: Clamp, Loop/5340-01-418-5763

NPA: None currently authorized.

Contract Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania

G. John Heyer,

General Counsel.

[FR Doc. 02-22722 Filed 9-5-02; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 6, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: On July 27, 2001, and July 12, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (66 FR 39142, and 67 FR 46170) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small

entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products and services proposed for addition to the Procurement List.

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Pen, Free Ink, Rollerball, Needle Point,

7520-00-NIB-1538 (Black 5mm),
7520-00-NIB-1539 (Black 7mm),
7520-00-NIB-1540 (Blue 5mm),
7520-00-NIB-1541 (Blue 7mm),
7520-00-NIB-1542 (Red 5mm),
7520-00-NIB-1543 (Red 7mm).

NPA: San Antonio Lighthouse, San Antonio, Texas.

Contract Activity: Office Supplies & Paper Products Acquisition Center, New York, New York.

Services

Service Type/Location: Food Service Attendant, Dakota Inn (Flight Kitchen and Alert Facility), Minot AFB, North Dakota.

NPA: MVW Services, Inc., Minot, North Dakota.

Contract Activity: Department of the Air Force, Minot AFB, North Dakota.

Service Type/Location: Grounds Maintenance USCG Chief of Staff Quarters, Bethesda, Maryland

USCG Commandant Quarters, Kenwood, Maryland

USCG Vice Commandant Quarters, Bethesda, Maryland

NPA: The Arc of Montgomery County, Inc., Rockville, Maryland.

Contract Activity: USCG Headquarters HSC A-3, Washington, DC.

Service Type/Location: Janitorial/Custodial, Air Traffic Control Tower (Midway Airport), Chicago, Illinois.

NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois.

Contract Activity: Federal Aviation Administration, Des Plaines, Illinois.

Service Type/Location: Janitorial/Custodial, FAA Chicago/Tracon, Elgin, Illinois.

NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois.

Contract Activity: Federal Aviation Administration, Des Plaines, Illinois.

Service Type/Location: Janitorial/Custodial, VA Greater Los Angeles Regional Healthcare System, Consolidated Mail Outpatient Pharmacy, Los Angeles, California.

NPA: Job Options, Inc., San Diego, California.
Contract Activity: Department of Veterans

Affairs, Long Beach, California.

Service Type/Location: Laundry Service, National Training Center, Fort Irwin, California.

NPA: Job Options, Inc., San Diego, California.

Contract Activity: Department of the Army, Fort Irwin, California.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

G. John Heyer,

General Counsel.

[FR Doc. 02-22723 Filed 9-5-02; 8:45 am]

BILLING CODE 6353-01-P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting; Public Meeting: Reactive chemical hazards, CSB business

AGENCY: Chemical Safety and Hazard Investigation Board (CSB).

ACTION: Notice announcing Sunshine Act public meeting.

SUMMARY: The CSB will hold a public meeting on September 17, 2002 in Houston, Texas at the Hilton Houston Hobby Airport, to deliberate and vote on a series of findings and recommendations arising from a two-year investigation into reactive chemical hazards. The Board will also conduct other business as more fully described below.

DATES: The Public Meeting will be held on Tuesday, September 17, 2002, beginning at 9 a.m. at Hilton Houston Hobby Airport, 8181 Airport Boulevard, Houston, TX 77061, Telephone number: (713) 645-3000.

Pre-Registration: The event is open to the public and there is no fee for attendance. However, attendees are strongly encouraged to pre-register, to ensure adequate seating arrangements. To pre-register, please e-mail your name and affiliation by September 12th, to reactives@csb.gov. Please notify CSB if a translator or interpreter is needed 5 business days prior to the public meeting.

The public meeting will be broadcast live and without charge over the Internet from the CSB Web site, www.chemsafety.gov. The broadcast can be viewed using the Windows Media Player, available from www.microsoft.com. Closed captioning service will be provided.

FOR FURTHER INFORMATION CONTACT: Robert Wager at (202)-261-7636, or e-mail at: reactives@csb.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 2000 the CSB approved an investigative report on the April 1998 explosion at the Morton Specialty Chemical's (now Rohm and Haas) Paterson, New Jersey facility. The report stated that the incident might not have occurred had the company's safety program for reactive chemicals followed recommended industry safety practices. The blast injured nine workers and released chemicals into the neighboring community. The Board adopted a number of recommendations, including two to both the U.S. Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). The first recommendation requested that EPA and OSHA issue joint guidelines for the management of reactive chemical process hazards. The Board believed that existing federal safety standards did not provide sufficient guidance for reactive chemical process safety, in such areas as reporting and investigating deviations from normal operations, the use of chemical screening techniques and the proper design for pressure relief, emergency cooling and safety interlock systems.

The other recommendation involving OSHA and EPA urged the two agencies to join the CSB, and other chemical safety organizations, including industry, in a CSB "hazard investigation" of reactive chemical processes.

Current Investigation

The objectives of CSB's investigation included: evaluation of the impacts of reactive chemical incidents; examination of how OSHA and EPA authorities and regulations address reactive hazards; analysis of the appropriateness and consideration of alternatives to reliance on the National Fire Protection Association (NFPA) instability rating system to define reactive substances covered under OSHA's process safety management (PSM) regulation; examination of how industry and other private sector organizations address reactive hazards; and development of recommendations for reducing the number and severity of reactive chemical incidents.

During its study, the CSB staff examined 167 chemical incidents and held a public hearing on May 30th, 2002, in Paterson, New Jersey, City where the staff presented findings and preliminary conclusions from this investigation to the Board. The hearing also provided a forum for interested parties to provide input prior to CSB's formulation of final recommendations and issuance of a report.

Other Board Business

After the conclusion of the presentation of the reactivities investigation report, Board Members will also meet in open session on the following topics: (a) Revisions to CSB strategic plan, (b) update by the Chief Operating Officer on current CSB investigative efforts, and (c) status changes to selected CSB recommendations.

Christopher W. Warner,
General Counsel.

[FR Doc. 02-22853 Filed 9-4-02; 3:45 pm]

BILLING CODE 6350-01-P

COMMISSION ON CIVIL RIGHTS**Sunshine Act Meeting Notice**

DATE AND TIME: Friday, September 13, 2002, 10:30 a.m.

PLACE: Wyndham Wilmington Hotel, 700 King Street, Wilmington, DE 19801.

STATUS:*Agenda*

- I. Approval of Agenda
- II. Approval of Minutes of July 19, 2002 Meeting
- III. Announcements
- IV. Staff Director's Report
- V. FY-2004 budget Estimate to OMB
- VI. State Advisory committee appointments for Georgia, New York, and Texas
- VII. State Advisory Committee Report: Civil Rights Issues in West Virginia (West Virginia)
- VIII. Presentations from Eastern Regional SAC members representing Delaware, Pennsylvania, New Jersey, and West Virginia on recent activities and other civil rights developments in their states, and by individuals and organizational representatives from the region on education issues.
- IX. Future Agenda Items

CONTACT PERSON FOR FURTHER

INFORMATION: Les Jin, Press and Communications (202) 376-7700.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 02-22856 Filed 9-4-02; 4:00 pm]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Order No. 1244]

Grant of Authority for Subzone Status; Valero Energy Corporation (Oil Refinery), Los Angeles County, CA, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, an application from the Board of Harbor Commissioners of the City of Long Beach, California, grantee of Foreign-Trade Zone 50, requesting special-purpose subzone status for the oil refinery complex of Valero Energy Corporation (formerly Ultramar, Inc.), located in the Los Angeles County, California, area, was filed by the Board on November 27, 2001, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 47-2001, (66 FR 63362, 12/6/02)); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 501) at the oil refinery complex of the Valero Energy Corporation in the Los Angeles County, California, area, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.
2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.10, #2709.00.20, #2710.11.25, #2710.11.45, #2710.19.05, #2710.19.10, #2710.19.45, #2710.91.00, #2710.99.05, #2710.99.10, #2710.99.16, #2710.99.21, and

#2710.99.45 which are used in the production of:

- Petrochemical feedstocks and refinery by-products (examiners report, Appendix "C");
- Products for export;
- And, products eligible for entry under HTSUS # 9808.00.30 and #9808.00.40 (U.S. Government purchases).

Signed at Washington, DC, this 23rd day of August 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02-22743 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[Order No. 1245]

Expansion of Foreign-Trade Zone 153, San Diego, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the City of San Diego, California, grantee of Foreign-Trade Zone 153, submitted an application to the Board for authority to expand FTZ 153 to include a new site (Site 8) at the Ocean View Hills Corporate Center/Otay Mesa within the San Diego Customs port of entry (FTZ Docket 7-2002; filed 1/30/02);

Whereas, notice inviting public comment was given in the **Federal Register** (67 FR 6678, 2/13/02) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 153 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 23rd day of August 2002.

Faryar Shirzad,

Assistant Secretary of Commerce, for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02-22745 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1246]

Grant of Authority for Subzone Status; DNP Electronics America, LLC (Projection Television Screens), Chula Vista, CA

Pursuant to its authority under the Foreign-Trade Zones Act, of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for “* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board’s regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the City of San Diego, California, grantee of Foreign-Trade Zone 153, has made application to the Board for authority to establish a special-purpose subzone at the projection television screen manufacturing and warehousing facilities of DNP Electronics America, LLC, located in Chula Vista, California (FTZ Docket 14–2002, filed 2/8/02);

Whereas, notice inviting public comment was given in the **Federal Register** 67 FR 7130, 2–15–02; and,

Whereas, the Board adopts the findings and recommendations of the examiner’s report, and finds that the requirements of the FTZ Act and the Board’s regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the projection television screen manufacturing and warehousing facilities of DNP Electronics America, LLC, located in Chula Vista, California (Subzone 153C), at the location described in the application, and subject to the FTZ Act and the Board’s regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of August 2002.

Faryar Shirzad,

Assistant Secretary of Commerce, for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–22746 Filed 9–5–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 33–2002]

Foreign-Trade Zone 226, Merced, Madera, Fresno and Tulare Counties, CA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the County of Merced, California, grantee of FTZ 226, requesting authority to expand and reorganize its zone in Tulare and Fresno Counties, California, within and adjacent to the Fresno Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on August 26, 2002.

FTZ 226 was approved on December 22, 1997 (Board Order 946, 63 F.R. 778, 1/7/98). A minor boundary modification (A(27f)–26–2002) was approved in mid-2002 which temporarily added and deleted certain sites. The zone project currently consists of the following sites within and adjacent to the Fresno Customs port of entry area: *Site 1*: (820 acres)—Castle Airport Morimoto Industrial Park (formerly Castle Air Force Base), 3450 C Street, Atwater (Merced County); *Site 2* (48 acres total)—6 acres at 7530 W. Sunnyview, 12 acres at 8505 W. Doe Avenue and 30 acres at the corner of Ferguson Avenue and Plaza Drive within the MidState 99 Distribution Center, Visalia (Tulare County); *Site 3* (191 acres)—Mid Cal Business Park, Highway 33, Gustine (Merced County); *Site 4* (204 acres)—within the Applegate Business Park, Highway 33, Air Park Road, Atwater (Merced County); *Site 4a* (15 acres)—located at 810 E. Continental Avenue, Tulare (Tulare County); *Site 5* (118 acres)—South Merced Airport Industrial Park, Albatross Avenue, Merced (Merced County); *Site 6* (101 acres)—City of Madera Airport Industrial Park/State Center Commerce Park (within State Enterprise Zone), Falcon Drive, Madera (Madera County); *Site 7* (10 acres)—City of Madera Industrial Park (within State Enterprise Zone), 2500 West Industrial Avenue, Madera (Madera County); *Site 8* (102 acres)—Airways East Business Park, East Shields Avenue, Fresno (Fresno County); *Site 9* (225 acres)—Central Valley Business Park, East North Avenue, Fresno (Fresno County); *Site 10* (501 acres)—Fresno Airport Industrial Park/City of Clovis Industrial Park, Aircorp Way, Fresno and West Dakota Avenue & West Pontiac Way, Clovis

(Fresno County); *Site 11* (35 acres)—Reedley Industrial Park II, 1301 South Buttonwillow Avenue, Reedley (Fresno County); and, *Site 12* (147 acres)—City of Selma Industrial Park, East Nebraska, Selma (Fresno County).

The applicant is now requesting authority to expand and reorganize the zone as described below. The proposal requests extension of zone status for parcels with temporary authority, permanent deletion of the sites/parcels that were temporarily deleted, deletion of certain additional sites, and expansion of existing Site 2 to include two new parcels.

Site 2 will be reorganized and expanded to include on a permanent basis the temporary sites at the MidState 99 Distribution Center (48 acres) and to add two new parcels (203 acres) within the 344-acre industrial park located in Visalia (Tulare County). Zone status is also being requested on a permanent basis for the temporary site (25 acres) at the Fresno Yosemite International Airport in Fresno (Site 10, as listed above). The application is also requesting authority to permanently delete a parcel (20 acres) from existing Site 1 and to delete Site 5 in its entirety (118 acres), as well as formalize the deletions made in the boundary modification. The total size of Site 2 will be increased to 251 acres while the size of Site 1 will be decreased to 800 acres. (The following sites would remain unchanged as listed above: 3, 4, 6–9, 11, 12.) No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board’s regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board’s Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building-Suite 4100W, 1099–14th Street, NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB-Suite 4100W, 1401 Constitution Avenue, NW., Washington, DC 20230.

The closing period for their receipt is November 5, 2002. Rebuttal comments in response to material submitted during the foregoing period may be

submitted during the subsequent 15-day period (to November 20, 2002).

A copy of the application and accompanying exhibits will be available during this time for public inspection at address Number 1 listed above, and at the Merced County Action Business Center, 2000 M Street, Merced, CA 95340.

Dated: August 26, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02-22747 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1242]

Approval for Subzone Expansion and Expanded Manufacturing Authority (Automotive Lighting Products), Foreign-Trade Subzone 146A, North American Lighting, Inc., Flora and Salem, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Bi-State Authority, grantee of Foreign-Trade Zone 146 (Lawrence County, Illinois), has requested authority on behalf of North American Lighting, Inc. (NAL), operator of FTZ 146A, at the NAL automotive lighting products manufacturing facilities in Flora and Salem, Illinois, to expand the subzone to include a third site in Paris, Illinois; to expand the boundary of Site 1; and, to expand the scope of manufacturing authority to include new manufacturing capacity under FTZ procedures (FTZ Doc. 43-2001, filed 10/31/2001);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 56271, 11/7/2001; 67 FR 44172, 7/1/2002—technical correction);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now therefore, the Board hereby approves the request, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 23rd day of August 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02-22744 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of availability of final evaluation findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for the Washington, South Carolina, California, Puerto Rico, and the Northern Mariana Islands Coastal Management Programs, and the Great Bay (New Hampshire) and Rookery Bay (Florida) National Estuarine Research Reserves (NERRs). Sections 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of coastal management programs, and the operation and management of NERRs.

The states of Washington, South Carolina, California, and the territories of Puerto Rico and the Northern Mariana Islands were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)-(K), and adhering to the programmatic terms of their financial assistance awards. Great Bay and Rookery Bay NERRs were found to be adhering to programmatic requirements of the NERR System.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Senior Policy Analyst, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910, or Ralph.Cantral@noaa.gov, (301) 713-3155 Extension 118.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: August 21, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02-22674 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Admittance to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office (USPTO)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 5, 2002.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of Data Management, Data Administration Division, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231; by telephone at 703-308-7400; by e-mail at susan.brown@uspto.gov; or by facsimile at 703-308-7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Christine Nucker, United States Patent and Trademark Office, Box OED, Washington, DC 20231, by telephone at 703-306-4097; by e-mail at oed@uspto.gov; or by facsimile at 703-306-4134.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants which shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

The USPTO administers the statute through 37 CFR 10.5 to 10.19. These rules address the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the

USPTO. The Office of Enrollment and Discipline (OED) collects information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects information to administer and maintain the roster of attorneys and agents registered to practice before the USPTO. Information concerning registered attorneys and agents is published by the OED in a public roster that can be accessed through the USPTO Web site.

There are four forms associated with this information collection. These forms are Form PTO-158 (Application for Registration to Practice Before the United States Patent and Trademark Office), Form PTO-158A (Application for Registration to Practice before the United States Patent and Trademark Office Under 37 CFR 10.6(c) By a Foreign Resident), Form PTO/275 (Undertaking Under 37 CFR 10.10(b)), and Form PTO-107A (Data Sheet—Register of Patent Attorneys and Agents). The applicant uses Form PTO-158 to apply for the examination. Forms PTO-158, PTO-158A, and PTO/275 are used as applicable for applicants seeking registration. Form PTO-107A is used by the applicant to supply information for the register.

Form PTO-1209 Oath or Affirmation is being added into this collection. The USPTO has previously been aware of this form but has reconsidered its inclusion into this collection due to the fact that it includes a notary public requirement which involves record keeping costs.

A requirement that was previously overlooked is being added to this information collection in the way of a petition that may be filed under 37 CFR

10.170 requesting in writing that a requirement of the regulations, which is not a requirement of the statutes, be suspended or waived by the Commissioner in an extraordinary situation, when justice requires. There is no form associated with this requirement.

A written request for reconsideration for individuals who receive a disapproval notice and desire further review or consideration, that was previously overlooked, is being added into this collection. The final decision by the Director of OED may be appealed to the USPTO Director. There is no form associated with this requirement.

Also being added to this collection is a petition for reinstatement of an individual who has resigned or who has been suspended or excluded, so long as the individual meets the requirements of 37 CFR 10.7, including taking and passing an examination and paying all costs and expenses as may be appropriate. There is no form associated with this requirement.

The information supplied to the USPTO by an applicant seeking to apply for the examination for registration and/or to request that they be included on the Register of Patent Attorneys and Agents is used by the USPTO to review applicants for the examination, and to determine whether an applicant may be added to, or an existing practitioner may remain on the Register of Patent Attorneys and Agents.

II. Method of collection

By mail to the USPTO when the individual desires to participate in the information collection.

III. Data

OMB Number: 0651-0012.

Form Number(s): PTO-158, Form PTO-158A, PTO/275, Form PTO-107A

and Form PTO-1209. There are no forms associated with the Petition for Waiver of Regulations, the Written Request for Reconsideration of Disapproval Notice of Application, and the Petition for Reinstatement to Practice.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit; the Federal Government; and state, local or tribal governments.

Estimated Number of Respondents: 19,649 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public approximately 30 minutes to complete either an application for registration to practice before the USPTO or an application for a foreign resident to practice before the USPTO and, depending upon the complexity of the situation, to gather, prepare, and submit the application. It is estimated to take 20 minutes to complete undertakings under 37 CFR 10.10(b). It is estimated to take 10 minutes to complete data sheets for the register of patent attorneys and agents. It is estimated to take 5 minutes to complete the oath or affirmation, 45 minutes to complete the petition for waiver of regulations, 90 minutes to complete the written request for reconsideration of disapproval notice of application, and 120 minutes to complete the petition for reinstatement to practice.

Estimated Total Annual Respondent Burden Hours: 5,436 hours per year.

Estimated Total Annual Respondent Cost Burden: \$1,369,872.00. Using the professional hourly rate of \$252 for associate attorneys in private firms, the USPTO estimates \$1,369,872 per year for salary costs associated with respondents.

Item	Estimated time for response (in minutes)	Estimated annual responses	Estimated annual burden hours
Application for Registration to Practice Before the United States Patent and Trademark Office	30	6,904	3,452
Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 10.6(c) by a Foreign Resident	30	100	50
Undertaking under 37 CFR 10.10(b)	20	264	87
Data Sheet—Register of Patent Attorneys and Agents	10	8,797	1,495
Oath or Affirmation	5	3,500	280
Petition for Waiver of Regulations (37 CFR 10.170)	45	75	56
Written Request for Reconsideration of Disapproval Notice of Application	90	5	8
Petition for Reinstatement to Practice	120	4	8
Total		19,649	5,436

Estimated Total Annual Nonhour Respondent Cost Burden: \$2,569,838.00. There are no capital start-up or maintenance costs associated with this

information collection. There are, however, non-hour costs due to record keeping requirements, filing fees, and mailing costs.

There are record keeping costs for this collection as a result of the Oath which includes a notary public requirement. The average fee for having a having a

document notarized is \$2.00. The USPTO estimates that it will receive 3,500 responses to this information collection per year as a result of this notary requirement, for a total cost of \$7,000 per year.

There are filing fees associated with this collection which are also part of the nonhour cost burden. The application

fees are broken out to include the fact that the one application form can cover any one of five different categories: As applicable when used for examination application, examination and registration fees; as applicable when used for examination application and examination fees only; as applicable when used for registration fees; as

applicable when used for reinstatement fees; and as applicable when used for examination application only. Following is a chart listing the filing fees and the nonhour cost burden. The total annual nonhour cost burden associated with filing fees is \$2,553,210.00.

Item	Responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (a) × (b) (c)
Application for Registration to Practice Before the United States Patent and Trademark Office (as applicable when used for examination application, examination, and registration fees) ..	3,200	\$450.00	\$1,440,000.00
Application for Registration to Practice Before the United States Patent and Trademark Office (as applicable when used for examination application, and examination fees only)	3,040	350.00	1,064,000.00
Application for Registration to Practice Before the United States Patent and Trademark Office (as applicable when used for registration fees)	200	100.00	20,000.00
Application for Registration to Practice Before the United States Patent and Trademark Office (as applicable when used for reinstatement fees)	304	40.00	12,160.00
Application for Registration to Practice Before the United States Patent and Trademark Office (as applicable when used for examination application fees only)	160	40.00	6,400.00
Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 10.6(c) by a Foreign Resident	100	100.00	10,000.00
Undertaking under 37 CFR 10.10(b)	264	0	0
Data Sheet—Register of Patent Attorneys and Agents	8,797	0	0
Oath or Affirmation	3,500	0	0
Petition for Waiver of Regulations (37 CFR 10.170)	75	0	0
Written Request for Reconsideration of Disapproval Notice of Application	5	130.00	650.00
Petition for Reinstatement to Practice (included above with application reinstatement fees)	4	0	0
Total	19,649	.....	2,553,210.00

There are mailing costs that also need to be added into the total annual nonhour cost burden for this collection. The General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases before the USPTO states that all business with the USPTO should be transacted in writing. Personal attendance is unnecessary. The actions of the OED will be based exclusively on the written record in the USPTO (37 CFR 1.2). All documents may be submitted to the USPTO by first-class mail through the United States Postal Service. All correspondence should include a certificate of mailing for each piece of correspondence enclosed, stating the date of deposit or transmission to the USPTO. The USPTO estimates that the average first-class postage cost is 49 cents. Therefore, the USPTO estimates that it will receive 19,649 responses to this information collection per year, for a total cost of \$9,628 per year ($19,649 \times \$0.49 = \$9,628$) in postage fees.

The total annual nonhour cost burden is \$2,569,838.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: August 30, 2002.

Susan K. Brown,

Records Officer, USPTO, Office of Data Management, Data Administration Division.
[FR Doc. 02-22677 Filed 9-5-02; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Secretary of the Navy's Advisory Subcommittee on Naval History

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The Secretary of the Navy's Advisory Subcommittee on Naval History, a subcommittee of the Department of Defense Historical Advisory Committee will meet to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History, which was conducted on September 20, and September 21, 2001 and to make comments and recommendations on these activities to the Secretary of the Navy. The meetings will be open to the public.

DATES: The meetings will be held on Thursday, September 19, 2002, from 8 a.m. to 4 p.m. and Friday, September 20, 2002, from 8 a.m. to 4 p.m.

ADDRESSES: The meetings will be held at the Navy Museum of The Naval Historical Center, 805 Kidder Breese Street, SE, Building 76, Washington Navy Yard, DC 20374-5060.

FOR FURTHER INFORMATION CONTACT: Dr. William S. Dudley, Director of Naval History, 805 Kidder Breese Street, SE, Bldg. 57, Washington Navy Yard, DC 20374-5060, telephone (202) 433-2210.

SUPPLEMENTARY INFORMATION: This notice of open meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of these meetings is to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History and to make comments and recommendations on these activities to the Secretary of the Navy.

Dated: August 27, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02-22679 Filed 9-5-02; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Performance Review Board Membership

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for monetary performance awards. Composition of the specific PRBs will be determined on an ad hoc basis from among individuals listed below:

ACKLEY, V. H. MR.
ALEXANDER, J. A. DR.
ALTWEGG, D. M. MR.
ANTANITUS, D. RADM
ANTOINE, C. S. MR.
ARNY, L. W. MR.
AVILES, D. M. HON.
BAILEY, W. C. MR.
BARNUM, H. C. MR.
BAUMAN, D. M. MR.
BEDARD, E. R. LTGEN
BLAIR, A. K. MS.
BONWICH, S. M. MR.
BOYD, W. R. MR.
BRANT, D. L. MR.
BREEDLOVE, W. J. DR.

BROWN, P. F. MR.
BURNS, J. D. RADM
BUTLER, J. D. RADML
CALI, R. T. MR.
CARPENTER, A. W. MS.
CATRAMBONE, G. P. MR.
CHENEVEY, J. V. RADM
CHURCH, A. T. RADM
CIPRIANO, J. R. MR.
CLARK, C. A. MS.
COCHRANE JR, E. R. MR.
COHEN, J. M. RADM
COHN, H. MR.
COLEMAN, R. S. BGEN
COMBS, D. S. MR.
COMMONS, G. L. MS.
COOK, C. E. MR.
CRENSHAW, L. RADM
CROWLEY, R. E. RADM
CURTIS, D. I. MR.
DEAN, P. J. MRS.
DECKER, M. H. MR.
DEWITTE, C. K. MS.
DOHERTY, L. M. DR.
DURAND, S. R. MS.
DYER, J. W. VADM
EDMOND, D. J. MS.
EHRLER, S. M. MR.
ELLIS, W. G. MR.
ENNIS, M. BGEN
ESSIG, T. W. MR.
EVANS, G. L. MS.
FEIGLEY, J. M. BGEN
FEIN, J. A. MR.
FELLIN, T. RADM
FILIPPI, D. M. MS.
FLYNN, B. P. MS.
FORD, F. B. MR.
FRANKLIN, R. E. MR.
GLAS, R. A. MR.
GODWIN, J. B. RADML
GOTTFRIED, J. M. MS.
GREENERT, J. W. RADM
GRIFFIN, R. M. MR.
GUARD, H. E. DR.
HAAS, R. L. MR.
HAGEDORN, G. D. MR.
HANDEL, T. H. MR.
HANNAH, B. W. DR.
HARTWIG, E. O. DR.
HAUENSTEIN, W. H. MR.
HAYNES, R. S. MR.
HENRY, M. G. MR.
HERR, F. J. DR.
HIGGINS, K. DR.
HILDEBRANDT, A. H. MR.
HOBART, R. L. MR.
HOGUE, R. D. MR.
HOLADAY, D. A. MR.
HOWARD, J. S. MR.
HOWELL, D. S. MS.
HOWIE, H. K. MR.
HUBBELL, P. C. MR.
JAGGARD, M. F. MR.
JOHNSON, H. T. HON
JOHNSTON, C. H. RADM
JUNKER, B. R. DR.
KLEMM, W. R. RADM
KOLB, R. C. DR.

KRANZ, T. F. MR.
KRASIK, S. A. MS.
KREITZER, L. P. MR.
LACEY, M. E. MRS.
LARAIA, J. R. MR.
LAUX, T. E. MR.
LEACH, R. A. MR.
LEBOEUF, G. G. MR.
LEGGIERI, S. R. MS.
LEKLOUDIS, S. G. DR.
LEWIS, R. D. MS.
LISIEWSKI, R. S. MR.
LIVINGSTONE, S. M. HON
LOFTUS, J. V. MS.
LONG, L. A. MS.
LOOSE, M. K. RADM
LOTT, B. M. MAJGEN
LOWELL, P. M. MR.
LYNCH, J. G. MR.
MAGNUS, R. LTRGEN
MALTBIE JR, W. F. MR.
MANGELS, K. H. MR.
MARTIN, R. J. MR.
MASCIARELLI, J. R. MR.
MCDONNELL, T. E. MR.
MCELENY, J. F. MR.
MCERLEAN, D. P. DR.
MCGEE, T. CAPT
MCGINN, D. V. VADM
MCKISSOCK, G. S. LTGEN
MCLAUGHLIN, P. MR.
MCNAIR, J. W.
MEADOWS, L. J. MS.
MERRITT, D. L. MR.
MESEROLE JR., M. MR.
MILES, B. K. MR.
MILLER, K. E. MR.
MOLZAHN, W. R. MR.
MONTGOMERY, J. A. DR.
MORA, A. J. HON
MORRIS, D. A. MR.
MURPHY, P. M. MR.
MUTH, C. C. MS.
NAVAS JR., W. A. HON.
NEWSOME, L. D. RADM
NICKELL JR, J. R. MR.
O'DRISCOLL, M. J. MR.
OLSEN, M. A. MS.
ORNER, J. G. MR.
PANEK, R. L. MR.
PARKS, G. L. LTGEN
PAYNE, T. MR.
PERSONS, B. J. MR.
PHELPS, F. A. MR.
PLUNKETT, B. J. MR.
POLLACK, W. J. MR.
POLZIN, J. E. MR.
PORTER, D. E. MR.
PRINE, R. MR.
RAMBERG, S. E. DR.
RANDALL, S. R. MR.
RAPS, S. P. MS.
RATH, B. B. DR.
ROARK JR., J. E. MR.
ROBERSON, E. S. MS.
ROBY, C. MS.
RODERICK, B. A. MR.
ROSENTHAL, R. J. MR.
RYZEWIC, W. H. MR.

SANDEL, E. A. MS.
 SAUL, E. L. MR.
 SCHAEFER, J. C. MR.
 SCHAEFER JR., W. J. MR.
 SCHNEIDER, P. A. MR.
 SCHREGARDOUS, D. R. MR.
 SCHUBERT, D. CAPT
 SHEA, R. M. MAJGEN
 SHECK, E. E. MR.
 SHEPHARD, M. R. MS.
 SIMON, E. A. MR.
 SOMOROFF, A. R. DR.
 STELLOH-GARNER, C. MS.
 STOREY, R. C. MR.
 STUSSIE, W. A. MR.
 SULLIVAN, P. E. RADML
 TAMBURRINO, P. M. MR.
 TARRANT, N. J. MS.
 TESCH, T. G. MR.
 THOMAS, J. R. BGEN
 THOMAS, R. O. MR.
 THOMPSON, R. C. MR.
 THROCKMORTON JR., E. L. MR.
 TOWNSEND, D. K. MS.
 TRAMMELL, R. K. MR.
 TULLAR, E. W. MR.
 TURNER, R. F. MR.
 UHLER, D. G. DR.
 WALDMAN, M. B. MR.
 WELCH, B. S. MS.
 WENNERGREN, D. M. MR.
 WEYMAN, A. S. MR.
 WHITON, H. W. RADM
 WHITTEMORE, A. MS.
 WILLIAMS, G. P. MR.
 WRIGHT, J. W. DR.
 YOUNG, C. B. RADM
 YOUNG, J. J. HON.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen Arrowood, Office of Civilian Human Resources, telephone (202) 764-0635.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02-22680 Filed 9-5-02; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

Revision to the Record of Decision for the Department of Energy's Waste Management Program: Treatment and Storage of Transuranic Waste

AGENCY: Department of Energy.

ACTION: Revision to Record of Decision.

SUMMARY: Pursuant to 10 CFR 1021.315, the Department of Energy (DOE) is revising the Record of Decision for the Department of Energy's Waste Management Program: Treatment and Storage of Transuranic Waste issued on January 20, 1998 (63 FR 3629), as revised previously on December 19,

2000 (65 FR 82985) and July 13, 2001 (66 FR 38646). The Department has now decided to transfer approximately 27 cubic meters of transuranic (TRU) waste from a portion of the Battelle Columbus Laboratory, the Battelle West Jefferson North Site (West Jefferson) in Columbus, Ohio, and approximately 9 cubic meters of TRU waste from the Energy Technology Engineering Center (ETEC) in Canoga Park, California, to the Hanford Site near Richland, Washington, for storage. DOE expects that this TRU waste will ultimately be shipped to the Waste Isolation Pilot Plant (WIPP) in New Mexico for disposal. The TRU waste will be shipped to Hanford from both sites in Type B truck-mounted shipping casks licensed by the U.S. Nuclear Regulatory Commission (NRC).

In its previous Record of Decision (ROD), based on the analysis in the Waste Management Programmatic Environmental Impact Statement (WM PEIS), DOE/EIS-0200F, dated May 1997, DOE had decided (with one exception) that each DOE site would prepare its own TRU waste for disposal, and store the waste onsite until it could be shipped to WIPP for disposal.

ADDRESSES: Copies of the Final Waste Management Programmatic Environmental Impact Statement, the WIPP Disposal Phase Final Supplemental Environmental Impact Statement, the first WM ROD, the first and second revised WM RODs, the WIPP disposal ROD, and this revised WM ROD are available from: The Center for Environmental Management Information, P.O. Box 23769, Washington, DC 20026-3769, Telephone: 1-800-736-3282 (in Washington, DC: 202-863-5084).

For copies of the Environmental Assessment for the Battelle Columbus Laboratories Decommissioning Project, June 1990, and further information about the management of TRU waste at the Battelle West Jefferson Site, contact: Mr. Thomas A. Baillieul, Columbus Environmental Management Project, U.S. Department of Energy, P.O. Box 200, West Jefferson, OH 43162, Telephone: 614-424-3559.

For copies of the draft Environmental Assessment for Cleanup and Closure of the Energy Technology Engineering Center, January 2002, and further information about the management of TRU waste at ETEC, contact: Ms. Mary Gross, Oakland Operations Office, U.S. Department of Energy, 1301 Clay Street, Room 700N, Oakland, CA 94612, Telephone: 510-637-1629.

FOR FURTHER INFORMATION CONTACT: For further information on the disposal of

TRU waste at WIPP, contact: Ms. Lynne Smith, U.S. Department of Energy, WIPP Office EM-23, Office of Environmental Management, 19001 Germantown Road, Germantown, MD 20874, Telephone: 301-903-4688.

For further information on Hanford site TRU operations, contact: Mr. Todd Shrader, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, MSIN A6-38, Richland, WA 99352, Telephone: 509-376-2725.

For information on DOE's National Environmental Policy Act (NEPA) process, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone 202-586-4600, or leave a message at 1-800-472-2756.

SUPPLEMENTARY INFORMATION:

I. Background

The WM PEIS evaluated the potential environmental impacts of treating and storing TRU waste at DOE generator sites and at DOE sites, such as Hanford, where this waste could be consolidated on a regional or centralized basis. In the WM PEIS ROD for TRU waste, DOE selected the Decentralized Alternative, stating that "each of the Department's sites that currently has or will generate TRU waste will prepare and store its waste on site" prior to shipment to WIPP.¹ The WM PEIS ROD also noted that "in the future, the Department may decide to ship transuranic wastes from sites where it may be impractical to prepare them for disposal to sites where DOE has or will have the necessary capability." The WM PEIS ROD stated that the sites that could receive TRU waste shipments from other sites were the Idaho National Engineering and Environmental Laboratory, the Oak Ridge National Laboratory, the Savannah River Site, and the Hanford Site, and that such decisions would be subject to appropriate review under NEPA.

TRU waste is waste that contains alpha particle-emitting radionuclides with atomic numbers greater than that of uranium (92) and half-lives greater than 20 years in concentrations greater than 100 nanocuries per gram. TRU waste is classified according to the radiation dose at a package surface. Contact-handled TRU waste has a radiation dose rate at a package surface of 200 millirem per hour or less; this

¹ The only exception to this decision was the Sandia National Laboratory in New Mexico, which will ship its TRU waste to the Los Alamos National Laboratory for disposal preparation and storage before disposal at WIPP.

waste can safely be handled directly by personnel. Remote-handled TRU waste has a radiation dose rate at a package surface greater than 200 millirem per hour, and must be handled remotely (e.g., with machinery designed to shield workers from radiation). Some TRU wastes are mixed with polychlorinated biphenyls (PCBs).²

WIPP is not currently authorized by the State of New Mexico to accept remote-handled TRU waste for disposal. However, DOE submitted a request for an amendment of its operating permit to include remote-handled TRU waste on June 28, 2002. The approval process for the permit amendment is expected to take approximately 2 years. DOE currently expects to begin shipping remote-handled TRU waste to WIPP in late 2004 or 2005.

Battelle West Jefferson North Site

DOE is contractually responsible for the disposal of approximately 27 cubic meters of contact- and remote-handled TRU waste generated as part of the cleanup of the Battelle West Jefferson North Site. This waste consists of sample residues, analytical equipment, and hot cell fixtures that became highly contaminated during several decades of metallurgical and nuclear fuel research. The remote-handled waste is currently being characterized and packaged into approximately 115 55-gallon drums. These packaged drums will meet or exceed the draft Waste Acceptance Criteria for disposal of remote-handled TRU waste at WIPP before it will be shipped to the Hanford Site. The contact-handled TRU waste from an earlier decommissioning of a former plutonium laboratory at the site, (up to 10 drums, i.e., approximately 2 cubic meters) will require final packaging and disposal certification at a site with the necessary handling capabilities for this type of material.

As part of the closeout of its nuclear materials research contract, the Department of Energy is assisting in the remediation of the site. Although the West Jefferson facility is privately owned, contract terms specify that all radioactive waste generated during the facility cleanup is "DOE-owned" for the purposes of disposal. The site's TRU waste is being stored in shielded holding areas within the hot cell building, one of three buildings slated for demolition. In order to meet the site's schedule for building demolition, removal of the stored TRU waste must

begin by the summer of 2002 and be completed within 12 months, well in advance of DOE's anticipated timeframe (late 2004 or 2005) for commencing shipments of remote-handled TRU waste to WIPP.

Continued storage of the TRU waste elsewhere on the West Jefferson site until WIPP is ready to receive the remote-handled waste would require construction of a new, shielded facility licensed by the State of Ohio and the NRC. Also, building a new facility would divert funding away from necessary clean-up activities and be inconsistent with DOE's goal of early removal of radioactive waste from privately owned sites. Therefore, DOE needs to ship the remote-handled TRU waste to another DOE site that has the requisite remote-handling and storage capabilities.

Energy Technology Engineering Center

DOE is responsible for the disposal of 11 cubic meters of TRU waste at ETEC, a government-owned complex of buildings located on the Santa Susana Field Laboratory in southern California. Up to 9 cubic meters of the TRU waste are remote-handled and approximately 2 cubic meters are contact-handled. (The remote-handled TRU waste will be repackaged and reduced in volume prior to shipment. DOE expects that the volume of remote-handled TRU waste to be shipped will be between 3 and 7 cubic meters. Thus, the maximum TRU shipping volume is expected to be about 9 cubic meters.)

The contact-handled TRU waste consists of solidified oils from the decontamination and decommissioning of a nuclear materials development facility and debris waste from the decontamination and demolition of glove boxes used for nuclear fuel decladding and repackaging operations. The remote-handled TRU waste, most of which has a low (approximately 130 parts per million) concentration of PCB contaminant, consists of drain line residue that accumulated in the Hot Laboratory (Building 020) drain line system over 30 years of facility operation, and one drum of debris waste from the cleanup of the Hot Laboratory and a nuclear materials development facility. TRU wastes are currently stored in the Radioactive Waste Handling Building at ETEC.

The waste will be packaged in 26 to 45 55-gallon drums for shipping (approximately 11 drums of contact-handled and 15 to 34 drums of remote-handled TRU waste). Up to 50 percent of this contact-handled TRU waste could be determined to be low-level radioactive waste (LLW) after further

characterization. ETEC does not have the capability to perform the radiological characterization that is required to identify any non-TRU drums and remove them from the waste stream. In addition, ETEC does not have the capability to certify that the contact-handled TRU waste meets the present WIPP Waste Acceptance Criteria. For these reasons, ETEC cannot currently ship its contact-handled TRU waste directly to WIPP.

ETEC is operated by Rocketdyne Propulsion & Power, a division of The Boeing Company, which owns the Santa Susana Field Laboratory land. DOE has determined that ETEC is surplus to its current needs. DOE intends to remove all radioactive materials and waste resulting from DOE activities at ETEC and turn the site over to Rocketdyne in 2006. In January 2002, DOE issued a draft Environmental Assessment for Cleanup and Closure of the Energy Technology Engineering Center (DOE/EA-1345) that describes the cleanup, decommissioning, and demolition of the remaining facilities at ETEC.

Developing the ability at ETEC to certify the contact-handled TRU waste as meeting the WIPP Waste Acceptance Criteria would require the construction of a new radiological facility or use of a mobile vendor to certify the waste. It would be impractical to construct and then to decontaminate and remove a radioactive waste management facility at the Santa Susana Field Laboratory, and mobile vendors are not capable of certifying all of the ETEC contact-handled TRU waste.³ Therefore, DOE needs to ship the contact-handled TRU waste to another DOE site for characterization and packaging in accordance with the WIPP Waste Acceptance Criteria.

Storage of remote-handled TRU waste elsewhere at ETEC until it could be sent to WIPP would require construction of a new storage facility. Further, ETEC does not have the capability to characterize and prepare the remote-handled TRU waste for shipment to WIPP. Building a facility with these capabilities would be impractical, would divert funding away from necessary clean-up activities, and would be inconsistent with DOE's goal of early removal of radioactive waste from privately owned sites. Therefore, DOE needs to ship the remote-handled TRU waste to another DOE site that has the requisite capabilities for storing this waste and preparing it for eventual

² DOE has applied to the Environmental Protection Agency to designate WIPP as a chemical waste landfill, so that WIPP can dispose of PCB-contaminated TRU waste.

³ Some of the contact-handled TRU waste is homogeneous and will require coring and sampling in order to be certified as meeting the WIPP Waste Acceptance Criteria. Mobile vendors do not have this capability.

shipment to WIPP. As requested by the U.S. Environmental Protection Agency (EPA), DOE has initiated discussions with EPA prior to the packaging of this waste for shipment to Hanford.⁴

II. Decision

Battelle West Jefferson North Site

DOE has decided to transfer approximately 27 cubic meters (approximately 125 55-gallon drums) of contact- and remote-handled TRU waste from the West Jefferson site to the DOE Hanford Site for storage prior to disposal at WIPP. DOE will ship this TRU waste in NRC-licensed Type B truck-mounted casks that are specifically certified for the West Jefferson TRU wastes. Approximately 15 truck shipments will be required to transfer the inventory of packaged TRU waste to Hanford. The shipments are expected to commence in summer of 2002 and to be completed within 12 months. Onsite activities will involve packaging the waste for shipment and loading trucks for transport.

Energy Technology Engineering Center

DOE has decided to transfer up to 9 cubic meters of TRU waste (26 to 45 55-gallon drums), of which most of the remote-handled TRU waste has a low (approximately 130 parts per million) concentration of PCB contaminant, from ETEC to the DOE Hanford Site for storage prior to planned disposal at WIPP. DOE will ship this waste in NRC-licensed Type B truck-mounted casks that will be specifically certified for the ETEC TRU wastes. Up to five casks will be required to transfer the inventory of packaged TRU waste to the receiving site in 1 to 5 shipments, depending on the volume of ETEC waste that can be placed in each cask and the number of casks that can be transported per shipment. DOE intends to complete the shipments over a 12-month period. Onsite activities will involve packaging the waste for shipment and loading trucks for transport. However, DOE will continue its consultation with EPA before packaging the waste for transport.

Hanford Site

The Hanford Site, located in Washington State near Richland, has an established radioactive waste management capability in the central plateau of the 586-square mile (1,520-square kilometer) reservation. At Hanford, the West Jefferson and ETEC TRU remote-handled waste will be stored in shielded containers at the solid radioactive and mixed waste

management complex located in the 200 West Area of the site until it can be accepted at WIPP. ETEC and West Jefferson contact-handled TRU waste will be assayed at Hanford, and any fraction determined to be LLW will be disposed of at Hanford. Both ETEC (also known as Rocketdyne on Hanford's approved generator's list) and West Jefferson are currently approved generator sites for disposal of LLW at Hanford. The remaining fraction determined to be contact-handled TRU waste will be packaged, certified to meet the WIPP Waste Acceptance Criteria, and shipped to WIPP for disposal.

III. Basis for the Decision

DOE needs to begin shipping its TRU waste from the West Jefferson and ETEC sites in the near future in order to meet the Department's timetables for cleanup of contaminated buildings at these sites. However, the TRU waste at both sites is predominantly remote-handled TRU waste, which cannot presently be accepted at WIPP for disposal. Constructing new facilities to continue onsite storage until the waste could be accepted at WIPP (estimated to be approximately late 2004 or 2005) would be costly, and would divert funds from decontamination and decommissioning activities. Constructing new storage capacity would also be contrary to the DOE's goal of early removal of radioactive waste from privately owned sites.

DOE's Hanford Site offers a practical, safe, and secure location for storing the wastes from West Jefferson and ETEC. Hanford also has a WIPP-approved program for certifying contact-handled TRU waste for disposal. Comparatively large volumes of remote- and contact-handled TRU waste (including PCB-contaminated TRU waste) have been and are being managed at Hanford, which has trained waste management personnel and storage capacity for TRU waste at the 200 Area waste management complex. No new storage facilities would be needed at any of the three sites; thus, the potential cost and health and environmental impacts associated with building new facilities at the two small sites, including a capability at ETEC to characterize and prepare its remote-handled TRU waste, would be avoided.

Hanford's program for certifying and shipping contact-handled TRU waste according to WIPP's Waste Acceptance Criteria and applicable state and federal regulations is operational. The site's planning for facilities and operations to characterize, certify and package remote-handled TRU waste is also well

underway.⁵ Using Hanford's capabilities to certify and ship the West Jefferson and ETEC TRU waste to WIPP will avoid the cost of establishing such capabilities at the two small sites.

DOE's previous analyses under the National Environmental Policy Act (WM PEIS, WIPP SEIS-II, and the Environmental Assessment for Battelle Columbus Laboratories Decommissioning Project (DOE/EA-0433, June 1990)) indicate that the potential health and environmental impacts of shipping a total of approximately 36 cubic meters of TRU waste from West Jefferson and ETEC to Hanford would be very small. Further, based on its review of the previous NEPA documents, DOE found that it is clear that its decision to ship TRU waste from the Battelle West Jefferson Site and ETEC to Hanford, for storage and subsequent disposal at WIPP, is not a substantial change to the proposed action analyzed in the previous NEPA documentation relevant to environmental concerns, and that there are no significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Therefore, DOE concluded that additional NEPA review is not required under 40 CFR 1502.9(c) or 10 CFR 1021.314 to implement this decision.

Although the WM PEIS did not analyze the onsite impacts of preparing all of the TRU waste that DOE now has decided to ship off site from West Jefferson (identified as Battelle Columbus or BCL in the WM PEIS) and ETEC, the inventory data for West Jefferson (580 cubic meters) and ETEC (9 cubic meters) were included and those impacts were analyzed in the WIPP SEIS-II. The onsite health and environmental impacts of preparing the West Jefferson (identified as Battelle Columbus or BCL in the WIPP SEIS-II) and ETEC wastes for offsite shipment were very small (see WIPP SEIS-II, Sections 5.1.9, 5.1.10, and 5.1.11), and the impacts of the volumes of TRU waste that DOE has now decided to ship will be within the impacts identified in the WIPP SEIS-II.

Although the WM PEIS did not identify specific transportation corridor impacts between the West Jefferson or ETEC sites and the Hanford Site, the WM PEIS analyzed a centralized alternative under which approximately 700 cubic meters of remote-handled

⁴ Letter dated February 28, 2002, from John H. Smith, EPA, to Lynne Smith, DOE WIPP Director.

⁵ The Hanford Site is currently analyzing additional facilities to characterize and prepare remote-handled TRU waste in the Draft Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement (DOE/EIS-0286D, April 2002, Richland Operations).

TRU waste and 1,700 cubic meters of contact-handled TRU waste would be transported from offsite DOE generator sites to Hanford over 20 years (see WM PEIS, Table 8.1–1 and Section 8.3.4). The potential risks associated with transportation (including routine and accident conditions) of the total of approximately 36 total cubic meters that DOE has now decided to ship would be small and much less than the transportation impacts (including routine and accident risks) identified in the WM PEIS (see WM PEIS, Sections 8.4.2, 8.7.5, and 8.10.1.1). In addition, the WIPP SEIS–II specifically analyzed transportation corridor impacts between ETEC and Hanford, which were small (see WIPP SEIS–II, Section 5.1.8). The volume of ETEC waste currently projected to be shipped to Hanford after volume reduction (11 cubic meters to 9 cubic meters) is identical to that analyzed in the WIPP SEIS II (see WIPP SEIS–II, Table 2–2).

In addition, the Environmental Assessment for Battelle Columbus Laboratories Decommissioning Project identified transportation corridor impacts between West Jefferson and Hanford for shipping 1,800 cubic meters of TRU waste over a period of 2 years and also found that the potential impacts would be very small. The 27 cubic meters of West Jefferson waste DOE has now decided to ship, and thus the potential transportation corridor impacts, would be substantially less than those identified in the environmental assessment.

The WM PEIS analyzed the onsite impacts at Hanford of storing, characterizing, and preparing up to 17,000 cubic meters of remote-handled TRU waste and 38,000 cubic meters of contact-handled TRU waste for shipment to WIPP (TRU waste generated at Hanford and TRU waste shipped to Hanford from offsite generators [Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Idaho National Engineering and Environmental Laboratory, and Los Alamos National Laboratory]) (see WM PEIS, Table 8.1–1 and Section 8.3.4). The health and environmental impacts of managing these volumes of waste at Hanford were small (see WM PEIS, Volume II, Site Data Tables, Section II.5.3). Although the WM PEIS did not analyze the specific waste inventory at West Jefferson and ETEC that DOE has now decided to ship to Hanford (approximately 36 cubic meters total), the characteristics of the West Jefferson and ETEC wastes are similar to the TRU wastes analyzed in the WM PEIS at Hanford. Further, the waste volumes to be shipped to Hanford would represent

a very small fraction of the total contact- and remote-handled TRU waste to be prepared at Hanford for shipment to WIPP (0.07 percent) as analyzed in the WM PEIS.

For the reasons stated above, DOE is revising its earlier decision and will transfer approximately 27 cubic meters of TRU waste from the West Jefferson site and approximately 9 cubic meters of TRU waste from the ETEC site to Hanford for storage until certification and shipment to WIPP for disposal. Low-level waste (if any) identified during the certification process will be disposed of at Hanford according to existing procedures.

Issued in Washington, DC, this 27th day of August, 2002.

Jessie Hill Roberson,

Assistant Secretary for Environmental Management.

[FR Doc. 02–22698 Filed 9–5–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2236–002]

Ameren Services Company; Notice of Filing

August 27, 2002.

Take notice that on August 22, 2002, Ameren Services Company (ASC) tendered for filing an unexecuted Network Integration Transmission Service Agreement and Network Operating Agreement between ASC and Southwestern Electric Cooperative, Inc. ASC asserts that the purpose of the Agreement is to replace the unexecuted Agreements in Docket No. ER02–2236–000 with the revised unexecuted Agreements with Cinergy Power Marketing, as agent for Southwestern Electric Cooperative, Inc.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person

designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 12, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–22660 Filed 9–5–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1688–002]

Central Illinois Generation, Inc.; Notice of Filing

August 30, 2002.

Take notice that on August 27, 2002, Central Illinois Generation (CIGI) tendered for filing with the Federal Energy Regulatory Commission (Commission) additional information to support CIGI's Application for Market-Based Rate Authority, Waivers and Acceptance of Power Supply and Interconnection Agreements filed on May 1, 2002, as supplemented on June 14, 2002, in Docket No. ER02–1688–000.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link.

Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 9, 2002.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22711 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-429-000]

Enbridge Pipelines (AlaTenn) Inc.; Notice of Request Under Blanket Authorization

August 30, 2002.

Take notice that on August 23, 2002, Enbridge Pipelines (AlaTenn) Inc. (AlaTenn), 1100 Louisiana, Suite 3300, Houston, Texas 77002, filed in Docket No. CP02-429-000, a request pursuant to 157.205 and 157.211(a)(2) (18 CFR Sections 157.205 and 157.211(a)(2)) of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to construct and operate a new delivery point facilities to serve an end-user in Madison County, Alabama under AlaTenn's blanket certificate issued in Docket No. CP85-359-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 208-1659.

Specifically, AlaTenn states that it is seeking authority to construct, own and operate new delivery point facilities on its existing 12-inch Mainline and 10-inch Loop Line to accommodate natural gas deliveries to Metal Working Products, a division of TDY Industries, Inc. (MWP), in Madison County, Alabama. AlaTenn states that MWP presently receives its natural gas service from Huntsville Utilities, the local

distribution company. According to AlaTenn, the proposed facilities will be used to transport up to 1,200 Dth of natural gas per day on a firm basis to MWP, which will be within AlaTenn's certificated level of services. AlaTenn further states that it will provide such firm transportation service on behalf of its marketing affiliate, Enbridge Marketing (US) Inc. under its existing authorized FT Rate Schedule, and within certificated entitlements. According to AlaTenn, the proposed facilities will not have an impact on AlaTenn's peak day deliveries, and that it has sufficient capacity to render the proposed transportation service without detriment or disadvantage to its existing customers. AlaTenn states that the total estimated cost of the proposed facilities is \$71,490, will be totally reimbursed by MWP, and that the volumes will be transported under AlaTenn's blanket certificate issued in Docket No. CP89-2201-000.

Any questions concerning this request may be directed to Claudia Schrull, Director of Regulatory Affairs, Enbridge Pipelines (AlaTenn) Inc., 1100 Louisiana, Suite 3300, Houston, Texas 77002 at (713) 821-2045.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22707 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. CP02-427-000]

Honeoye Storage Corporation; Notice of Application

August 30, 2002.

Take notice that on August 20, 2002, Honeoye Storage Corporation (Honeoye), c/o HALLC, 55 Union Street, 4th Floor, Boston, Massachusetts 02108, filed an application in the above captioned docket seeking a certificate of public convenience and necessity and related authorizations pursuant to Section 7 of the Natural Gas Act (NGA), as amended, and the Commission's Rules and Regulations thereunder. Honeoye's application requests that the Commission issue an order authorizing Honeoye to make a well modification and increase the Maximum Allowable Operating Pressure (MAOP) of its compressor station and field gathering system as described in the application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 208-1659. Any questions regarding this application should be directed to Richard A. Norman, Vice-President, Honeoye Storage Corporation, c/o EHALLC, 55 Union Street, 4th Floor, Boston, MA 02108 (617) 367-0032.

Honeoye's application states that it does not seek to increase the existing certificated storage capacity or injection/withdrawal deliverability of its facility. Honeoye also indicated that the proposed activities will improve operational efficiency of its storage reservoir located in Ontario County, New York within existing certificated limits. Honeoye asserts that while it has met all of its service obligations, it is unable to completely fill the storage reservoir during the injection cycle to its certificated capacity because of limits on the existing MAOP. In addition, Honeoye states that it has experienced a decline in deliverability during late stages of withdrawal from the Honeoye facility because of the installation of smaller casing/tubing sizes in certain injection/withdrawal wells.

Consequently, Honeoye proposes to increase the MAOP of its compressor station and field gathering system from its presently authorized limit of 1045 psia to 1322 psia to improve injection rates during late stages of injection.

Honeoye further proposes to laterally extend the existing Roberts #3 injection/withdrawal well in order to enhance deliverability during the withdrawal season. Honeoye states that these modifications will enhance the injection and withdrawal capability of the Honeoye facility while permitting Honeoye to remain within its certificated limitation of Maximum Quantity Stored of 6,718.4 MDth and Maximum Daily Withdrawal Quantity of 55,880 MDth/d. The cost of the proposed project is \$548,500, which will be financed with funds on hand, funds generated internally, borrowing under revolving credit agreements, or short-term financing which will be rolled into permanent financing.

Honeoye states that all proposed work will be completed on or beneath land and existing right of ways and leases which it now owns, and therefore, Honeoye indicates that this application does not require the exercise of the right of eminent domain.

There are two ways to become involved in the Commission's review of this project. First any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 23, 2002, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceedings. Only parties to the proceedings can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22705 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02-125-000]

KeySpan Energy Development Corporation, KeySpan-Ravenswood, LLC, New York Power Authority, Electric Power Supply Association and Independent Power Producers of New York, Inc., Complainants v. New York Independent System Operator, Inc., Respondent; Notice of Complaint

August 30, 2002.

Take notice that on August 28, 2002, KeySpan Energy Development Corporation, KeySpan-Ravenswood, LLC, the New York Power Authority, Electric Power Supply Association and Independent Power Producers of New York, Inc. filed a Complaint against the New York Independent System Operator, Inc. (NYISO) requesting that the Federal Energy Regulatory Commission direct the NYISO to (1) prepare a revised Cost Allocation Report for the Class of 2001 that complies with the NYISO Open Access Transmission Tariff with revised allocations of the cost of system upgrade facilities and (2) prepare cost allocation reports for succeeding years in compliance with the Commission's decision in this proceeding.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before September 17, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 208-1659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The

Commission strongly encourages electronic filings.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22708 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-505-000]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Tariff Filing

August 30, 2002.

Take notice that on August 28, 2002, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1-B, Second Revised Sheet No. 54A and Original Sheet No. 54B, to be effective October 1, 2002.

KMIGT states that the purpose of this filing is to revise the provisions of KMIGT's Tariff in the General Terms and Conditions (GT&C) relating to capacity releases by shippers which are not creditworthy or which become noncreditworthy.

KMIGT states that a copy of this filing has been served upon all of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502-8222 or for TTY, (202) 208-1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly

encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22721 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF92-198-004 and EL02-124-000]

Lake Cogen, Ltd.; Notice of Filing

August 30, 2002.

Take notice that on August 23, 2002, Lake Cogen, Ltd. (Applicant) filed in the above-referenced docket a request for a temporary waiver of the operating and efficiency standards for its qualifying cogeneration facility (Facility) in Umatilla, Florida, pursuant to Section 292.205(c) of the Commission's regulations.

The waiver being requested is for calendar year 2002 due to a reduction in the amount of steam used by the Facility's steam host. The Facility supplies steam to a fruit processing plant operated by Citrus World. Applicant also sells electric power to Florida Power Corporation.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 23, 2002.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22720 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-2016-000]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

August 30, 2002.

Take notice that on July 29, 2002, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Withdrawal of Filing of the Midwest ISO of its June 5, 2002 filing of an Interconnection and Operating Agreement.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 9, 2002.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22712 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-2033-002]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

August 30, 2002.

Take notice that on August 26, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and American Transmission Company LLC (ATCLLC) submitted a compliance filing with the Federal Energy Regulatory Commission (Commission) in accordance with the Commission's August 1, 2002 Order in this proceeding to change the liability limitation provisions in the Midwest ISO OATT to remove the monetary caps on the recovery of direct damages for ordinary negligence.

The Midwest ISO states that it has served copies of its filing upon each person designated on the official service list compiled by the Secretary in the above-captioned proceeding.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web

site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 16, 2002.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22713 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-428-000]

Ozark Gas Transmission, L.L.C.; Notice of Application

August 30, 2002.

Take notice that on August 23, 2002, Ozark Gas Transmission, L.L.C. (Ozark), 515 Central Park Drive, Suite 600, Oklahoma City, Oklahoma 73105, filed in Docket No. CP02-428-000, an application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), for authorization to abandon facilities by sale or transfer and for a declaration that certain facilities will be exempt gathering facilities following their transfer, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 208-1659.

Ozark states that it is asking the Commission to issue an order granting permission and approval for Ozark to abandon certain jurisdictional facilities by sale to another interstate pipeline to accommodate service to a new electric generating facility currently under construction, and to transfer certain related lateral facilities to others which are to be non-jurisdictional gathering facilities.

Specifically, Ozark is seeking authorization to: (1) Abandon by sale to Reliant Energy Gas Transmission Company (REGT) a 28.97 mile segment of Ozark's interstate pipeline system in Pittsburg and Latimer Counties, Oklahoma, including certain associated lateral pipelines and facilities (REGT Transferred Facilities); and (2) to abandon by transfer to Ozark's gathering pipeline affiliate, Ozark Gas Gathering,

L.L.C. (OGG), the Moss Lateral pipeline and associated facilities (Moss Lateral Facilities), which are interconnected with the facilities to be sold to REGT near milepost 252 of the current Ozark mainline pipeline. Ozark states that it is also requesting a Commission determination that the Moss Lateral Facilities will be gathering facilities exempt from NGA regulation once they have been abandoned by Ozark.

According to Ozark, REGT intends to use the REGT Transferred Facilities to deliver gas to the 1,220 MW Kiamichi Energy Facility (Kiamichi Facility), a new, combined-cycle, natural gas-fired electric generating facility which is currently under construction in Pittsburg County near Kiowa, Oklahoma. The Kiamichi Facility, which is being developed by Kiowa Power Partners, LLC, is expected to commence commercial operation in April 2003.

As stated by Ozark, REGT plans to acquire the REGT Transferred Facilities, to provide service on the REGT Transferred Facilities and to perform associated construction pursuant to its blanket construction certificate and Section 157.208 of the Commission's Regulations. REGT has informed Ozark that it will file a "prior notice" concerning its proposed acquisition and related construction shortly after the Commission gives notice of Ozark's Application.

Ozark states that the shippers whose gas currently is transported through the facilities Ozark proposes to abandon will not be harmed by the proposed transaction. REGT will continue to operate the REGT Transferred Facilities and provide transportation access to all interconnected producers and parties purchasing their gas. The other facilities to be abandoned in this proceeding will not be retired as part of Ozark's abandonment in this proceeding;¹ these facilities will continue to be operated, albeit by OGG, rather than by Ozark. Similarly, Ozark's existing gas transmission operations will not be detrimentally affected. Following the proposed abandonments and transfers, Ozark states that it will continue to provide services previously authorized by the Commission on the remainder of its pipeline system, east of the REGT Transferred Facilities. There will be no reduction in the overall capacity of the Ozark system.

Ozark states that it and REGT have entered into an Agreement for Purchase and Sale, dated August 2, 2002, that will

¹ OGG does plan to retire one interconnection which is not currently being used following the transfer of the Moss Lateral Facilities.

govern the sale of the REGT Transferred Facilities.

Ozark states that it and OGG have entered into an Asset Transfer Agreement, dated August 22, 2002, that will govern the transfer of the Moss Lateral Facilities, at net book value, from Ozark to OGG.

It is noted that the Kiamichi Facility may require natural gas transportation service on Ozark to test its facilities before the proposed abandonment, sale, purchase and construction will be completed. Accordingly, to provide for services to the Kiamichi Facility from October 1, 2002 until the earlier of July 1, 2003 or the commercial operation date of April 1, 2003, it is explained that Ozark and REGT have entered into an interruptible transportation service agreement under Ozark's Rate Schedule ITS for transportation of up to 240,000 MMBtu on the Ozark system. Similarly, to meet the Kiamichi Facility's need for firm service beginning on the earlier of July 1, 2003, or the commercial operation date of April 1, 2003, Ozark and REGT have entered into a firm transportation service agreement under Ozark's Rate Schedule FTS for transportation of up to 240,000 MMBtu on the Ozark system.

Any questions concerning this application may be directed to James F. Bowe, Jr., Hugh E. Hilliard, Dewey Ballantine LLP, 1775 Pennsylvania Avenue NW, Washington, DC 20006-4605, at (202) 862-1000 or fax (202) 862-1093; or Marla K. Adams, Manager, Governmental Affairs, Enogex Inc., 515 Central Park Drive, Suite 600, Oklahoma City, OK 73105, at (405) 557-5274 or fax (405) 557-7903.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before September 20, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22706 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-1330-001]

Pacific Gas and Electric Company; Notice of Filing

August 30, 2002.

Take notice that on August 26, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing a response to FERC's deficiency letter dated May 17, 2002, in this docket. PG&E's letter pertains to several Agreements filed on March 18, 2002, including an executed Generator Interconnection Agreement (GIA) to replace an unexecuted placeholder GIA that is part of the Generator Special Facilities Agreement (GSFA), between PG&E and Los Medanos Energy Center LLC (LMEC) and which provides for Special Facilities and the parallel operation of LMEC's generating facility and the PG&E-owned electric system that is on file with the Commission as Service Agreement No. 8 to PG&E Electric Tariff, Sixth Revised Volume No. 5. In the August 26, 2002 filing PG&E included additional information requested by FERC, including a proposed crediting mechanism for network upgrades.

Copies of this filing have been served upon LMEC, Calpine Corporation, the California Independent System Operator Corporation, and the California Public Utilities Commission, and the parties to this docket.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically

via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 16, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02-22710 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-3491-002]

PPL Montana, LLC, PPL Colstrip I, LLC, PPL Colstrip II, LLC; Notice of Filing

August 30, 2002.

Take notice that on August 26, 2002, PPL Montana, LLC, PPL Colstrip I, LLC and PPL Colstrip II, LLC (collectively the Companies) filed with the Federal Energy Regulatory Commission (Commission) an updated market power analysis pursuant to the Commission's order in *Illinova Power Marketing, Inc., et al.*, 88 FERC ¶ 61,189 (1999).

The Companies have served a copy of this filing on the parties on the Commission's official service list for this docket.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or TTY, (202) 208-1659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: September 16, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02-22709 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT02-39-000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

August 30, 2002.

Take notice that on August 26, 2002, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Twenty-First Revised Sheet No. 26A, Thirty-First Revised Sheet No. 26B, and Third Revised Sheet No. 220A, with an effective date of September 26, 2002.

Tennessee states that this filing is to update Rate Schedule NET-284 to reflect the conversion of four shippers to service under six Rate Schedule FT-A Agreements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202) 502-8222 or for TTY, (202) 208-1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. 02-22714 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02-20-000]

Union Light, Heat and Power Company; Notice of Petition for Rate Approval

August 30, 2002.

Take notice that on July 18, 2002, Union Light, Heat and Power Company (Union) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for transportation and storage services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Union proposes to establish a monthly 100% reservation charge rate of \$0.3046 per Dekatherm of demand associated with a no-notice quality service to be rendered pursuant to its Order No. 63 blanket certificate issued on December 1, 1998, in Docket No. CP98-70-000.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 16, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the

Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502-8222 or for TTY, (202) 208-1659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22719 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02-108-000, et al.]

Aquila Merchant Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 28, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Aquila Merchant Services, Inc.

[Docket No. EC02-108-000]

Take notice that on August 23, 2002, Aquila Merchant Services, Inc. (Aquila Merchant) filed an application with the Federal Energy Regulatory Commission (Commission) pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b, and Part 33 of the Commission regulations, 18 CFR part 33. Aquila Merchant seeks authorization and approval to assign a Master Power Purchase and Sale Agreement Confirmation Letter and a Base Agreement for Electric Power Purchase and Sale Transactions to the MidAmerican Energy Company.

Comment Date: September 9, 2002.

2. USGen New England, Inc., Constellation Power Source, Inc.

[Docket No. EC02-109-000]

Take notice that on August 22, 2002, USGen New England, Inc. (USGenNE) and Constellation Power Source, Inc. (CPS), tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), and Part 33 of the

Commission's regulations, 18 CFR part 33, an application requesting that the Commission approve the transfer of a negotiated percentage of the right and obligation of USGenNE to serve the Massachusetts Electric Company and the Nantucket Electric Company to CPS.

Comment Date: September 13, 2002.

3. USGen New England, Inc., Constellation Power Source, Inc.

[Docket No. EC02-110-000]

Take notice that on August 22, 2002, USGen New England, Inc. (USGenNE) and Constellation Power Source, Inc. (CPS), tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), and Part 33 of the Commission's regulations, 18 CFR part 33, an application requesting that the Commission approve the transfer of a negotiated percentage of the right and obligation of USGenNE to serve The Narragansett Electric Company to CPS.

Comment Date: September 13, 2002.

4. ISO New England Inc., New York Independent System Operator, Inc.

[Docket No. RT02-3-000]

Take notice that on August 23, 2002 ISO New England Inc. (ISO-NE) and the New York Independent System Operator, Inc. (NYISO) filed a Petition for a Declaratory Order seeking an order that the proposed Northeastern Regional Transmission Organization would qualify as a Regional Transmission Organization.

ISO-NE and the NYISO are serving a copy of the petition on the Governors and utility regulatory commissions of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. A copy is also being posted on the Web sites of ISO-NE and the NYISO.

Comment Date: September 27, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person

designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call 202-208-2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.

Deputy Secretary

[FR Doc. 02-22668 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-1264-003, et al.]

Mirant Neenah, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 29, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Mirant Neenah, LLC

[Docket No. ER02-1264-003]

Take notice that on August 20, 2002, Mirant Neenah, LLC (Mirant Neenah), tendered for filing a notification of change in status with respect to its authority to engage in wholesale sales of capacity, energy, and ancillary services at market-based rates.

Comment Date: September 10, 2002.

2. Atlantic City Electric Company

[Docket No. ER02-2484-000]

Take notice that on August 21, 2002, Atlantic City Electric Company (Atlantic) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement dated August 1, 2002 between NUI Energy Brokers, Inc. and Atlantic under Atlantic's Wholesale Market Based Rate Tariff; and an executed copy of Edison Electric Institute's Master Power Purchase and Sale Agreement dated August 1, 2002 between NUI Energy Brokers, Inc. and Atlantic.

Comment Date: September 11, 2002.

3. Central Maine Power Company

[Docket No. ER02-2497-000]

Take notice that on August 27, 2002, Central Maine Power Company (CMP) tendered for filing revisions to the Continuing Site/Interconnection

Agreement (CSIA) by and between CMP and FPL Energy Maine, Inc., designated as FERC Electric Tariff, Fifth Revised, Volume No. 3, Original Service Agreement No. 158, First Revised. The CSIA revisions are necessitated by the execution of a Second Amendment to the CSIA, dated July 24, 2002.

Comment Date: September 17, 2002.

4. South Carolina Electric & Gas Company

[Docket No. ER02-2498-000]

Take notice that on August 26, 2002, South Carolina Electric & Gas Company (SCE&G) submitted a firm point-to-point transmission service agreement and a non-firm transmission service agreement (the Agreements) establishing TXU Energy Trading Company, LP (TXU) a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of August 1, 2002 for the Agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served on TXU and the South Carolina Public Service Commission.

Comment Date: September 16, 2002.

5. PacifiCorp

[Docket No. ER02-2499-000]

Take notice that on August 26, 2002, PacifiCorp tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with Part 35 of the Commission's Rules and Regulations (18 CFR Part 35), a Mutual Netting/Settlement Agreement with Eagle Mountain City.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission, the Utah Public Service Commission and the Public Utility Commission of Oregon.

Comment Date: September 16, 2002.

6. Allegheny Energy Service Corporation; On behalf of Monongahela Power Company,) The Potomac Edison Company, and West Penn Power Company (dba Allegheny Power')

[Docket No. ER02-2500-000]

Take notice that on August 27, 2002, Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company, dba Allegheny Power, filed a revised Schedule D to the Power Supply Agreement among them to reflect membership in PJM West. An effective date of April 1, 2002, is requested.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania

Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment Date: September 17, 2002.

7. American Electric Power Service Corporation

[Docket No. ER02-2501-000]

Take notice that on August 27, 2002, American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection and Operation Agreement between Ohio Power Company and Lawrence Energy Center, LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000. AEP requests an effective date of October 25, 2002.

A copy of the filing was served upon Lawrence Energy Center, LLC and the Public Utilities Commission of Ohio.

Comment Date: September 17, 2002.

8. CNG Power Services Corporation

[Docket No. ER02-2502-000]

Take notice that on August 27, 2002, CNG Power Services Corporation tendered for filing a Notice of Cancellation of its Rate Schedule, Designated as Rate Schedule FERC No. 1. CNG Power Services Corporation requests cancellation effective October 28, 2002, which is sixty days after the date of this filing.

Comment Date: September 17, 2002.

9. Dominion Retail, Inc.

[Docket No. ER02-2503-000]

Take notice that on August 27, 2002, Dominion Retail, Inc. tendered for filing a Notice of Cancellation of its Rate Schedule, Designated as Rate Schedule FERC No. 1. Dominion Retail, Inc. request cancellation effective October 28, 2002, which is sixty days after the date of this filing.

Comment Date: September 17, 2002.

10. Central Maine Power Company

[Docket No. ER02-2504-000]

Take notice that on August 27, 2002, Central Maine Power Company (CMP) tendered for filing an executed Local Network Operating Agreements (LNOA) and executed service agreements for Local Network Transmission Service (LNSA) entered into with Topsham Hydro Partners Limited Partnership (Topsham Hydro). These agreements

supersede agreements previously filed on March 4, 2002. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Fifth Revised Volume No. 3, under the following Service Agreement Numbers:

Topsham Hydro LNSA—First Revised Service Agreement No. 151

Topsham Hydro LNOA—First Revised Service Agreement No. 152

Comment Date: September 17, 2002.

11. Central Maine Power Company

[Docket No. ER02-2505-000]

Take notice that on August 27, 2002, Central Maine Power Company (CMP) tendered for filing a service agreement for Non-Firm Local Point-to-Point Transmission Service by and between CMP and FPL Energy Maine, Inc., designated as FERC Electric Tariff, Fifth Revised, Volume No. 3, Original Service Agreement No. 159.

Comment Date: September 17, 2002.

Standard Paragraph

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the instructions (call 202-208-2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-22669 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 1417-080]

Central Nebraska Public Power and Irrigation District; Notice of Availability of Draft Environmental Assessment

August 29, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed a Land and Shoreline Management Plan for the Kingsley Dam Hydroelectric Project, located on the North Platte and Platte Rivers, in Garden, Keith, Lincoln, Dawson, and Gosper Counties, Nebraska, and has prepared a Draft Environmental Assessment (DEA). The Kingsley Dam Project does not occupy any federal or tribal lands.

The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that approving the Land and Shoreline Management Plan, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 208-1659.

Any comments should be filed within 30 days from the date of this notice and should be addressed to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please affix Project No. 1417-080 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

For further information, contact Steve Hocking at (202) 502-8753 or steve.hocking@ferc.gov.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-22661 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP02-374-000]

Hackberry LNG Terminal, L.L.C.; Notice of Resource Agency Meeting and Site Visit

August 29, 2002.

On September 11, 2002, staff of the Office of Energy Projects (OEP) will attend an interagency meeting and pre-certification site visit of Hackberry LNG Terminal L.L.C.'s (Hackberry LNG) proposed liquefied natural gas (LNG) import terminal and storage facility in Cameron Parish, Louisiana. Representatives of Federal and state resource agencies, as well as representatives of Hackberry LNG, will be present.

All interested parties may attend the site visit. Those planning to attend must provide their own transportation. Anyone interested in participating should meet at the proposed LNG terminal site, located approximately 15 miles south of Sulphur, Louisiana along Louisiana State Route 27, at 8:30 a.m. on September 11, 2002. The meeting place is a gravel drive on the left side of Louisiana State Route 27, two miles south of the Intracoastal Waterway bridge.

Linwood A. Watson, Jr.,
Deputy Secretary.

[FR Doc. 02-22659 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 2738-049]

New York State Electric and Gas Corporation; Notice of Availability of Environmental Assessment

August 30, 2002.

An environmental assessment (EA) for Project No. 2738-049 is available for public review. The EA examines the New York State Electric and Gas Corporation's (NYSEG) proposal to change land rights, and sell 101 acres within the current boundary of the Saranac River Hydroelectric Project to Clinton County, New York (County) or New England Waste Services of New York, Inc. (NEWSNY). The County and NEWSNY have a public-private partnership currently operating a solid waste landfill adjacent to NYSEG's Kents Falls development, and propose

to expand the landfill upon the project lands they would acquire. The Kents Falls development is located along the Saranac River within the town of Schuyler Falls, Clinton County, New York.

The EA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Copies of the EA can be viewed during normal business hours (8:30 a.m. to 5 p.m.) in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426, or by calling (202) 502-8371. This document may also be viewed on the FERC Internet Web site (<http://www.ferc.gov>) using the FERRIS link. For assistance with FERRIS, the FERRIS helpline can be reached at (202) 502-8222.

Additional information about the proposed project is available from the Commission's Office of External Affairs at 1-866-208-FERC, or contact the environmental project manager, Paul Friedman, at (202) 502-8059.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22715 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments**

August 29, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12196-000.

c. *Date filed:* June 10, 2002.

d. *Applicant:* Clear Lake Hydro, LLC.

e. *Name of Project:* Clear Lake Dam Hydroelectric Project.

f. *Location:* At an existing dam owned by the U.S. Bureau of Reclamation (USBR) on the Lost River in Modoc County, California. Part of the project would be on lands administered by the USBR.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, Idaho 83442 (208) 745-0834.

i. *FERC Contact:* Regina Saizan, (202) 502-8765.

j. *Deadline for filing comments, protests, and motions to intervene:* 60

days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the project number (P-12196-000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would utilize the existing Clear Lake Dam and consist of: (1) A proposed 84-inch-diameter steel penstock approximately 200 feet long, (2) a proposed powerhouse containing one turbine generator having a total installed capacity of 1.5 MW, (3) a proposed 2-mile-long, 15 kV transmission line, and (4) appurtenant facilities. The project would have an annual generation of 5.4 GWh.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 208-1659. A copy is also available for inspection and reproduction at Clear Lake Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752-2580.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the

particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant (s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION",

"PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02-22664 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 30, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12201-000.

c. *Date filed:* June 10, 2002.

d. *Applicant:* Merritt Hydro, LLC.

e. *Name and Location of Project:* The Merritt Dam Hydroelectric Project would be located on the Snake River in Cherry County, Nebraska. The project would utilize the U.S. Bureau of Reclamation's existing Merritt Dam and Reservoir.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745-0834.

h. *FERC Contact*: James Hunter, (202) 502-6086.

i. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the project number (P-12201-000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project*: The proposed project, using the existing Merritt Dam and Reservoir, would consist of: (1) One 60-inch-diameter, 200-foot-long steel penstock, (2) a powerhouse containing one generating unit with an installed capacity of two megawatts, (3) a 5-mile-long, 25-kilovolt transmission line connecting to an existing power line, and (4) appurtenant facilities. The project would have an average annual generation of 10 gigawatthours.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 208-1659. A copy is also available for inspection and reproduction at Merritt Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752-2580.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent

allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in

all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22716 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 30, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 12210-000.

c. *Date filed*: June 6, 2002.

d. *Applicant*: Twitchell Hydro, LLC.

e. *Name and Location of Project*: The Twitchell Dam Hydroelectric Project would be located on the Cuyama River in San Luis Obispo County, California. The project would utilize the U.S. Bureau of Reclamation's existing Twitchell Dam and Reservoir.

f. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contact*: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745-0834.

h. *FERC Contact*: James Hunter, (202) 502-6086.

i. *Deadline for filing comments, protests, and motions to intervene*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the project number (P-12210-000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. j.

j. *Description of Project*: The proposed project, using the existing Twitchell Dam and Reservoir, would consist of: (1) one 60-inch-diameter, 200-foot-long steel penstock, (2) a powerhouse containing one generating unit with an installed capacity of 2.5 megawatts, (3) a 5-mile-long, 25-kilovolt transmission line connecting to an existing power line, and (4) appurtenant facilities. The project would have an average annual generation of 10.9 gigawatthours.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 208-1659. A copy is also available for inspection and reproduction at Twitchell Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752-2580.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the

Commission on or before the specified comment date for the particular application (see 18 CFR 4.36).

Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 02-22717 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 30, 2002.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications*: Preliminary Permit (Competing).

b. *Project Nos.*: 12314-000 and 12304-000.

c. *Dates filed*: July 1, 2002, and July 15, 2002.

d. *Applicants*: Midwest Hydro Inc. and Universal Electric Power Corporation.

e. *Name and Location of Projects:*

Both Dresden Island L&D Hydroelectric Projects are proposed to be located on the Illinois River in Grundy County, Illinois, and to utilize the U.S. Army Corps of Engineers' existing Dresden Island Lock and Dam.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contacts:*

For Midwest: Mr. William Pickrell, 695 Garland Avenue, Winnetka, IL 60093, (847) 501-3030 and Mr. Donald Clarke, Law Offices of GKRSE, 1500 K Street, NW., Washington, DC 20005, (202) 408-5400 Ext. 36.

For Universal: Mr. Raymond Helter, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535-7115.

h. *FERC Contact:* James Hunter, (202) 502-6086.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the noted project numbers on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Projects:* Each project proposes to use the existing Dresden Island Lock and Dam and would consist of: (1) four 84-inch-diameter, 50-foot-long steel penstocks leading from the outlet works to the turbine assembly, (2) a powerhouse containing four generating units with a total installed capacity of 5.25 megawatts, (3) a 1/2-mile-long, 14.7-kilovolt transmission line connecting to an existing power line, and (4) appurtenant facilities. Each project would have an average annual generation of 32 gigawatt-hours.

k. These filings are available for review at the Commission in the Public

Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502-8222 or for TTY, (202) 208-1659. A copy is also available for inspection and reproduction at the addresses in item g. above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation

of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

[FR Doc. 02-22718 Filed 9-5-02; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6632-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D-BLM-K60033-NV Rating EC2, Toquop Energy Project, Toquop Land Disposal Amendment to the Caliente Management Framework Plan (MFP), Construction of a 1,100-megawatt (MW) Natural Gas-Fired Water-Cooled Electric Power Generating Plant and Associated Features on Public Lands, Right-of-Way Grant, Lincoln, Clark and Washoe Counties, NV.

Summary: EPA expressed environmental concerns about air and water quality impacts and cumulative impacts. EPA also requested additional information to support the purpose and need statement and a broader range of alternatives.

ERP No. DS-AFS-J65312-WY Rating EC2, Squirrel Meadows Grand Targhee Land Exchange Proposal, New Information and Current Environmental and Socioeconomic Conditions, Implementation, Targhee National Forest, Teton County, WY.

Summary: While the proposed land exchange would result in a net increase of Forest Service wetland acreage, EPA expressed environmental concerns that the proposed action would create a private inholding within the National Forest boundary, expanding the ski area base development 6 miles with potential adverse impacts on wildlife habitat. Information disclosing the full impacts of this action and the other proposed alternatives, including levels of management and environmental protection and further explanation of visitor data should be discussed in the final EIS.

ERP No. DS-FHW-K40224-CA Rating EC2, I-880/CA-92 Interchange Reconstruction, I-880 from Winton Avenue to Tennyson Road and CA-92 from Hesperian Boulevard to Santa Clara Street, Updated Information,

Funding, City of Hayward, Alameda County, CA.

Summary: EPA expressed environmental concerns regarding air quality and environmental justice impacts from the proposed project. EPA recommended greater analysis of the potential for adverse health effects from air toxics related to the proposed project. EPA also recommended that the Federal Highway Administration revisit the environmental justice assessment and analyze impacts to minority populations within the project study area.

ERP No. DS-NRC-E06012-SC Rating EC1, GENERIC EIS—Catawba Nuclear Station, Unit 1 and 2 (Catawba), Renewal of the Operating Licenses (OLs) for an Additional 20-Year Period, Supplement 9 to NUREG-1437, York County, SC.

Summary: EPA expressed environmental concern about the need to clarify impacts of anticipated power demands.

Final EISs

ERP No. F-AFS-J65359-MT Lolo National Forest Post Burn Management Activities, Implementation, Ninemile, Superior and Plains Ranger Districts, Mineral, Missoula and Sanders Counties, MT.

Summary: EPA expressed environmental concerns about the impacts of sediment production/delivery from the proposed timber harvest and road management on water quality. EPA supports road decommissioning, road BMP improvements and other watershed restoration activities which should reduce sediment production and improve water quality, fisheries habitat, fish passage and connectivity over the long term.

ERP No. F-AFS-K65238-CA Star Fire Restoration Removal of Fire-Killed Trees, Road Reconstruction and Associated Restoration, Eldorado National Forest (ENF) Georgetown Ranger District, Middle Fork American River, Chipmunk Ridge and the North Fork of Long Canyon, Placer County, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F-AFS-L65375-00 Lookout Pass Ski and Recreation Area (LPSRA) Expansion Project, Implementation, Amendment to the Existing Special Use Permit, NPDES Permit and U.S. Army COE Section 404 Permit, Idaho Panhandles National Forests, Coeur d'Alene River Range District, ID and MT.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F-BLM-K09807-NV Table Mountain Wind Generating Facility Project, Construction of a 150 to 205 Megawatt (MW) Wind Powered Electric Generation Facility and Ancillary Facilities, Right-of-Way Grant, Spring Mountain Range between the Communities of Goodsprings, Sandy Valley, Jean and Primm, Clark County, NV.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F-FHW-D40305-WV WV-65 Transportation Improvement Project, Appalachian Corridor G near Belo to U.S. 52 at Naugatuck, Funding and U.S. Army COE Section 404 Permit Issuance, Mingo County, WV.

Summary: EPA expressed no objections to the Draft EIS. No comments were provided for the final document.

ERP No. F-FHW-H40166-MO MO-63 Corridor Project, Transportation Improvement extending from south of the Phelps/Maries County Line and south of Route W near Vida, Funding and U.S. Army COE Section 404 Permit Issuance City of Rolla, Phelps and Maries Counties, MO.

Summary: The FEIS adequately addressed issues previously raised by EPA.

ERP No. F-NOA-K39068-CA San Francisco Bay National Estuarine Research Reserve, Proposal to Designate Three Sites: China Camp State Park, Brown's Island Regional Parks District, and Rush Ranch Open Space Preserve, Contra Costa, Marin and Solano Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. FS-FHW-K40166-HI Honoapiilani Highway/FAP Route 30 Improvement, New Information concerning Construction of Modifications to Honoapiilani Highway from Puamana to Honokowai, U.S. Army COE Permits and PDES Permit Issuance and Funding, Lahaina District, Maui County, HI.

Summary: EPA expressed continuing environmental concerns regarding deficiencies in the analyses of traffic impacts, cumulative impacts, water quality impacts, specific mitigation measures, and non-point source pollution associated with the proposed project. EPA recommended that FHWA and the Hawaii Department of Transportation commit to specific mitigation measures in the Record of Decision and provide an impact analysis of the five future connector roads in a single NEPA document.

Dated: September 3, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-22732 Filed 9-5-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6632-8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or www.epa.gov/compliance/nepa.

Weekly receipt of Environmental Impact Statements

Filed August 26, 2002 Through August 30, 2002

Pursuant to 40 CFR 1506.9.

EIS No. 020366, Final EIS, AFS, ID, Mann Creek Vegetation Management and Watershed Restoration Project, Implementation, Payette National Forest, Weiser Ranger District, Washington County, ID, *Wait Period Ends:* October 7, 2002, *Contact:* John Baglien (208) 549-4200.

EIS No. 020367, Draft EIS, FHW, NC, U.S. 64 Corridor Project, Transportation Improvements in the Vicinity of the City of Asheboro and Improved Access to the NC Zoological Park, Funding and COE Section 404 Permit, Transportation Improvement Program (TIP) Project No. R-2536, Randolph County, NC, *Comment Period Ends:* October 21, 2002, *Contact:* Nicholas L. Graf, P.E. (919) 856-4346.

EIS No. 020368, Draft EIS, AFS, AZ, Flagstaff/Lake Mary Ecosystem Analyses Area, Amendment to the Coconino Forest Plan, Implementation, Coconino National Forest, Peaks and Mormon Lake Ranger Districts, Coconino County, AZ, *Comment Period Ends:* October 21, 2002, *Contact:* Debbie Kill (928) 526-0866.

EIS No. 020369, Draft Supplement, AFS, MT, Meadow Smith Project, New and Additional Information, Proposing Management Actions Designed to Maintain the Presence of and Protect the Unique Characteristics of Open-Grow, Large-Tree Ponderosa Pine and Western Larch Forest Communities, Flathead National Forest, Swan Lake Ranger District, Lake and Missoula Counties, MT, *Comment Period Ends:* October 21, 2002, *Contact:* Keith Soderstrom (406) 837-7510.

EIS No. 020370, Draft EIS, IBR, NM, UT, CO, Navajo Reservoir Operations,

Proposed Operational Changes to Navajo Dam and Reservoir, Endangered Species Act (ESA), Related Flow Recommendations, Navajo Unit-San Juan River, NM, CO and UT, *Comment Period Ends:* November 4, 2002, *Contact:* Ken Beck (970) 385-6558.

EIS No. 020371, Final Supplement, NOA, NC, FL, SC, GA, South Atlantic Region Shrimp Fishery Management Plan, Amendment 5, Additional Information concerning Rock Shrimp in the Exclusive Economic Zone (EEZ), NC, SC, FL and GA, *Wait Period Ends:* October 7, 2002, *Contact:* Dr. Joseph E. Powers (727) 570-5305.

EIS No. 020372, Final Supplement, COE, WI, IL, WI, Upper Des Plaines River Flood Damage Reduction Project, Recommended Plan to Construction a Lateral Storage Area, National Economic Development (NED), Lake County, IL and Kenosha and Racine Counties, WI, *Wait Period Ends:* October 7, 2002, *Contact:* Keith Ryder (312) 353-6400.

EIS No. 020373, Draft EIS, FSA, Programmatic EIS—Conservation Reserve Program Implementation and Expansion, Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), in the United States, *Comment Period Ends:* October 21, 2002, *Contact:* Don Steck (202) 690-0224. This document is available on the Internet at: <http://www.fsa.usda.gov/dafp/cepd/epb/nepa.htm>.

EIS No. 020374, Final EIS, FRC, WA, Martin Creek Hydroelectric Project (FERC Project No. 10942), Construction, Operation and Maintenance of a 10.2-Megawatt (MW) Hydroelectric Run-of-River Facility, License Approval, Cascade Mountains, Martin and Kelley Creeks, Mt. Baker-Snoqualmie National Forest, King County, WA, *Wait Period Ends:* October 7, 2002, *Contact:* David Turner (202) 502-6091.

EIS No. 020375, Draft EIS, FHW, IN, IN- 25 Transportation Corridor, Improvements from Interstate 65 Interchange to U.S. 24, Funding, Right-Of-Way and COE Section 404 Permits, Hoosier Heartland Highway, Tippecanoe, Carroll and Cass Counties, IN, *Comment Period Ends:* November 1, 2002, *Contact:* Robert Dirks (317) 226-7341. This document is available on the Internet at: <http://www.sr25study.com>.

EIS No. 020376, Draft EIS, IBR, CA, Fish Passage Improvement Project at the Red Bluff Diversion Dam (RBDD), Improvements of Anadromous Fish Passage both Upstream and Downstream, Tehama-Colusa Canal

Authority (TCCA), Tehama, Glenn, Colusa and Yolo Counties, CA, *Wait Period Ends:* October 21, 2002, *Contact:* Max Stodolski (530) 529-3895.

EIS No. 020377, Draft EIS, FHW, ND, U.S. 2 Highway Transportation Improvements, From near U.S. Highway 85 (milepost 31.93) to west of U.S. Highway 52 (milepost 131.24), Funding, NPDES and COE Section 404 Permits, Williams, Mountrail, and Ward Counties, ND, *Comment Period Ends:* October 7, 2002, *Contact:* J. Michael Bowen (701) 250-4204.

Amended Notices

EIS No. 020326, Final EIS, FHW, RI, Sakonnet River Bridge Rehabilitation or Replacement Project, Portsmouth & Tiverton, Newport County, RI, *Contact:* Daniel J. Berman (401) 528-4541. Revision of FR Notice Published on 8-9-2002: Officially Withdrawn by the Preparing Agency letter Dated 6/28/2002.

EIS No. 020354, Draft EIS, NOA, Northeast Skate Complex Fishery Management Plan, Implementation of Management Measures, Magnuson-Stevens Fishery Conservation and Management Act, New England Fishery Management Council, *Comment Period Ends:* October 15, 2002, *Contact:* Patricia Kurkul (978) 281-9210. Revision of FR Notice Published on 8/30/2002: Contact Person's Phone Number Corrected from 202-482-5181 to 978-281-9210.

Dated: September 3, 2002.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 02-22733 Filed 9-5-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2002-0135; FRL-7197-1]

Notice of Receipt of Request To Voluntarily Cancel Certain Pesticide Registrations for Disulfoton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of a request by a registrant to voluntarily cancel certain pesticide registrations for disulfoton, or O,O-diethyl S-[2-(ethylthio)ethyl]phosphorodithioate.

The registrant has elected to voluntarily cancel certain disulfoton products rather than develop the data necessary to evaluate the human health risks associated with these products.

DATES: Unless EPA receives comments within the public comment period that would merit the Agency's further review of this request, EPA will issue an order canceling all of these registrations effective December 31, 2003. EPA is accepting comments on this Notice until October 7, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the

SUPPLEMENTARY INFORMATION. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-2002-0135 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Christina Scheltema, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-2201; fax number: (703) 308-8005; e-mail address: scheltema.christina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. You may be affected by this action if you manufacture, sell, distribute, or use disulfoton products. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to

the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0135. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-2002-0135 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters

and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-2002-0135. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action Is the Agency Taking?

EPA has received a request from Adams Technology, the authorized

agent for the registrant, Easy Gardener Inc., to cancel four pesticide products containing the active ingredient O,O-diethyl S-[2-(ethylthio)ethyl]phosphorodithioate (disulfoton) registered under section 3 of FIFRA effective as of December 31, 2003. EPA completed an Interim Reregistration Eligibility Decision (IRED) for disulfoton on March 30, 2002, and issued the IRED document on July 17, 2002. As part of the reregistration process, Easy Gardener Inc. has elected to voluntarily cancel certain disulfoton products rather than develop the data necessary to support reregistration. The registrations with pending requests for voluntary cancellation are listed in the following table.

TABLE 1.—DISULFOTON REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

EPA Registration No.	Product Name
46260-2	Jobe's Spikes Systemic Insecticide with Fertilizer for Roses
46260-12	Jobe's Spikes Systemic Insecticide with Fertilizer for Beautiful Trees
46260-35	Jobe's Spikes Systemic Insecticide with Fertilizer for Houseplants
46260-36	Ross Systemic Root Feeder Cartridge

FIFRA section 6(f)(1)(B) requires that EPA provide a 30-day comment period in which the public may comment before the Agency may act on the request for voluntary cancellation. EPA intends to grant the request for voluntary cancellation, unless during the comment period EPA receives substantive comments that would merit the Agency's further review of this request. For purposes of the cancellation order that the Agency intends to issue at the close of the comment period for this notice, EPA intends to include certain provisions governing the sale, distribution and use of existing stocks. The term "existing stocks" as defined in EPA's existing stocks policy in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL-3846-4), means those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation. EPA intends to permit sale and distribution of the existing stocks by the registrant until December 31, 2004, and by

persons other than the registrant until the existing stocks are exhausted. EPA also intends to permit use of existing stocks until they are exhausted, provided that such further use is in accordance with the EPA-approved label and labeling of the affected product.

B. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request voluntary cancellation of any of its pesticide registrations. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

List of Subjects

Environmental protection, Disulfoton, Pesticides, Reregistration, Voluntary cancellation.

Dated: August 28, 2002.

Susan Lewis,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02-22729 Filed 9-5-02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7273-4]

Ecological Risk Assessment for the Middle Snake River, Idaho

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of final document.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces the availability of a final document, Ecological Risk Assessment for the Middle Snake River, Idaho (EPA/600/R-01/017, February 2002), prepared as a collaborative effort between the National Center for Environmental Assessment-Washington (NCEA-W), within EPA's Office of Research and Development; the Office of Environmental Assessment, Region 10 of the EPA; the University of Idaho; and the University of Illinois. Mathematical models and field observations were used to estimate ecological risks to rainbow trout, mountain whitefish, and white sturgeon from stressors such as reduced water flows and sedimentation. The report serves as an example of using ecological risk assessment to improve

the use of sound science in watershed-scale decision making.

ADDRESSES: The document is available electronically from the NCEA Web site (<http://www.epa.gov/ncea>) under Selected Topics, Watershed Assessment. A limited number of copies will be available from EPA's National Service Center for Environmental Publications (NSCEP) in Cincinnati, Ohio (telephone: 1-800-490-9198, or 513-489-8190; facsimile 513-489-8695). Please provide the title and EPA number when ordering from NSCEP. Documents also may be ordered via the Internet at <http://www.epa.gov/NCEP/home/orderpub.html>. Paper copies may be purchased from the National Technical Information Service (NTIS) in Springfield, VA (1-800-553-NTIS[6847] or 703-605-6000; facsimile 703-321-8547). Please provide the number, PB2002-104231, for this document when ordering from NTIS.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Victor Serveiss (202-564-3251); mailing address: NCEA-W (8623D), U.S. Environmental Protection Agency, Washington, DC 20460; facsimile: 202-565-0076; e-mail: serveiss.victor@epa.gov, or Patricia Cirone (206-553-1597); mailing address: Region X, MS-OEA-095, 1200 Sixth Avenue, Seattle, Washington 98101; e-mail: cirone.patricia@epa.gov.

Dated: August 27, 2002.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 02-22731 Filed 9-5-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 28, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that

does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 7, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202-418-0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-0812.

Title: Exemption From Payment of Regulatory Fees When Claiming Non-Profit Status.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local, and tribal government.

Number of Respondents: 4,000.

Estimated Time Per Response: .50 hours.

Frequency of Response: On occasion and one-time reporting requirements, and recordkeeping requirement.

Total Annual Burden: 2,000 hours.

Total Annual Cost: N/A.

Needs and Uses: This information is required when licensees and regulatees are requesting exemption from payment of regulatory fees due to their non-profit status. Licensees or regulatees are required to file one-time documentation sufficient to establish their proof of non-profit status. This documentation can be in the form of an Internal Revenue Service (IRS) determination letter, a state charter indicating their non-profit status, proof of church affiliation indicating tax exempt status, etc. The Commission requires that the licensee

or regulatee maintain this information for two years. This will allow adequate time to conduct audits, if necessary, or to determine whether fee payments were made correctly.

OMB Control No.: 3060-0687.

Title: Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87-124.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,268.

Estimated Time Per Response: 9.86 hours.

Frequency of Response: Third party disclosure and labeling requirements.

Total Annual Burden: 25,000 hours.

Total Annual Cost: \$272,000.

Needs and Uses: Section 68.300(b) requires telephones with electro-magnetic coil hearing aid compatibility to be stamped with the letters "HAC" (hearing aid compatible). Section 68.224 requires a notice to be contained on the surface of the packaging of a non-hearing aid compatible telephone that the telephone is not hearing aid compatible. The collections are third party disclosure and labeling requirements. The information is used primarily to inform consumers who purchase and/or use telephone equipment to determine whether the telephone is hearing aid compatible.

OMB Control No.: 3060-0793.

Title: Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Procedures for Self Certifying as a Rural Carrier.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and state, local, or tribal government.

Number of Respondents: 10.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement, and third party disclosure requirement.

Total Annual Burden: 10 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission adopted proposals that carriers serving study areas with fewer than 100,000 access lines that already have certified their rural status need not re-certify for purposes of receiving support beginning January 1, 2000, and need only file thereafter if their status changes. Further carriers serving more than 100,000 access lines need to file rural certifications for their year 2001 status and thereafter only if their status has changed. All the requirements are

necessary to implement the congressional mandate for universal service. The reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02-22647 Filed 9-5-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2573]

Petitions for Reconsideration of Action in Rulemaking Proceeding

August 29, 2002.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing and copying in Room CY-A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863-2893. Oppositions to these petitions must be filed by September 23, 2002. See § 1.4(b) (1) of the Commission's rules (47 CFR 1.4(b) (1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules Concerning Maritime Communications (PR Docket No. 92-257, RM-9664).

Number of petitions filed: 4.

Marlene H. Dortch,

Secretary.

[FR Doc. 02-22648 Filed 9-5-02; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 002550-006.

Title: New Orleans/Maersk Lease.
Parties: Board of Commissioners of the Port of New Orleans

Synopsis: This amendment allows Maersk to handle non-Maersk and non-CSX cargo at the France Road Terminal Berth No. 1.

Agreement No.: 201026-003.

Title: New Orleans/P&O Ports Lease.
Parties: Board of Commissioners of the Port of New Orleans P&O Ports Louisiana, Inc.

Synopsis: This amendment revises the annual guarantee, provides for adjusted rates during the renewal period, and acknowledges the purchase by P&O Ports Louisiana, Inc. of the original lessee, Transocean Terminal Operators, Inc.

Agreement No.: 201030-003.

Title: New Orleans/P&O Ports/SSA Gulf Terminals Lease.

Parties: Board of Commissioners of the Port of New Orleans. P&O Ports Gulfport, Inc. SSA Gulf Terminals, Inc.

Synopsis: This amendment revises the annual guarantee, increases the size of the leased premises, and removes P&O Ports from any further obligations under the lease.

By Order of the Federal Maritime Commission.

Dated: August 30, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02-22644 Filed 9-5-02; 8:45 am]

BILLING CODE 6730-01-P

Vice President, (Qualifying Individual), Kurt Skov, President.

Gutierrez Courier & Cargo, Inc., 2139 N.W. 79th Avenue, Miami, FL 33122, *Officers:* Diana Rovelo, Vice President, (Qualifying Individual), Marco Tulio Gutierrez, President.

Cargo Logistics Network, Inc., 1825 Cross Beam Road, Suites B & C, Charlotte, NC 28217, *Officer:* Marion D. Sitton, Managing Director, (Qualifying Individual).

IMPEX Worldwide Inc., 5109 Longwood Drive, Durham, NC 27713, *Officers:* Vladimir A. Mirovitski, President, (Qualifying Individual), Natalia S. Mirovitskaia, Vice President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant:

Shipping Corporation International, Conley Terminal Masssport Admin. Bldg., Suites 210/215, So. Boston, MA 02127, *Officer:* Susan E. Lewis, President, (Qualifying Individual).

Dated: August 30, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02-22646 Filed 9-5-02; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date Re-issued
3961F	Ford Freight Forwarders, Inc., 8081 NW 67th Street, Miami, FL 33166.	May 25, 2002.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02-22645 Filed 9-5-02; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 9 a.m. (EDT) September 17, 2002.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Parts will be open to the public and part closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the August 19, 2002, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of FY 2002 budget and projected expenditures, approval of FY 2003 proposed budget, and review of FY 2004 budget estimate.
4. Litigation review (closed to the public).

Part Closed to the Public

Litigation review.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942-1640.

Dated: September 4, 2002.

David L. Hutner,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 02-22804 Filed 9-4-02; 12:41 am]

BILLING CODE 6760-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Civil Rights

Privacy Act of 1974; New System of Records

AGENCY: Office for Civil Rights, HHS.

ACTION: Notification of a New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act, the Office for Civil Rights (OCR) is publishing notice of a new system of records (SOR) called the "Program information Management System (PIMS), HHS/OS/OCR (09-90-0052)." We are giving notice of the routine uses for this new system.

EFFECTIVE DATES: OCR invites interested parties to submit comments on the proposed internal and routine uses on or before October 7, 2002. OCR has sent a Report of a New System of Records to the Congress and to the Office of Management and Budget (OMB) on August 6, 2002. The system of records

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Blue Water Shipping US, Inc., 550 Broad Street, Suite 1001, Newark, NJ 07102, *Officers:* Viktor E. Sapp, Exec.

will be effective 40 days from the date submitted to OMB unless OCR receives comments which would result in a contrary determination.

ADDRESSES: The public should address comments to: Larry Velez, Program, Policy and Training Division, Office for Civil Rights, Department of Health and Human Services, Room 553E, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Comments also may be sent via e-mail to OCRmail@hhs.gov. Comments received will be through Friday from 9 a.m. – 3 p.m., eastern standard time.

FOR FURTHER INFORMATION CONTACT: Claudia Schlosberg, Acting Director, Program, Policy and Training Division, Office for Civil Rights, Department of Health and Human Services, Room 553E, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Telephone number: (202) 619-3197.

SUPPLEMENTARY INFORMATION: The Office for Civil Rights (OCR) is responsible for enforcing Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and other statutes which prohibit discrimination by programs or entities that receive Federal financial assistance. Additionally, OCR has jurisdiction over Federally conducted programs in cases involving disability-based discrimination under section 504 of the Rehabilitation Act, over state and local public entities in cases involving disability-based discrimination under Title II of the Americans with Disabilities Act and certain health plans, health clearinghouses and health care providers with respect to enforcement of medical privacy obligations under the Health Insurance Portability and Accountability Act (HIPAA).

Currently, OCR maintains two system of records: the "Case Information Management System (CIMS), HHS/OS/OCR (09-90-0050)," and the "Complaint File and Log, HHS/OS/OCR (09-90-0051)." CIMS also includes the Case Activity Tracking System (CATS) which was created to use newer computer technology (*i.e.*, moved CIMS off a mainframe computer onto a local area network environment), but continued to collect and store the same information as in CIMS.

CMS is used to track complaints and compliance review activity. The Complaint File and Log consists primarily of paper files, complaint allegations, information gathered during complaint investigations or reviews, letters of findings and correspondence

relating to investigations. The Complaint File and Log was exempted from the notification, access, correction and amendment provisions of the Privacy Act under subsection (k)(2) concerning records compiled for law enforcement purposes. 49 FR 14107 (April 10, 1984).

OCR proposes to establish a new system of records: "Program Information Management System (PIMS), HHS/OS/OCR (09-90-0052)." PIMS will be used for OCR staff and will consist of an electronic repository of information and documents, and supplementary paper document files. PIMS effectively combines and replaces OCR's two existing systems of records, (CIMS and the Complaint File and Log), into a single integrated system with enhanced electronic storage, retrieval and tracking capacities. While the types of information collected and stored in PIMS will be the same as the information collected in CIMS and the Complaint File and Log, PIMS will allow OCR to manage more effectively the information that it does collect.

The PIMS system will allow OCR to integrate all of OCR's various business processes, including all its compliance activities, to allow for real time access and results reporting and other varied information management needs. PIMS will provide: (1) A single, central, electronic, repository of all OCR documents and information including investigative files, correspondence, administrative records, policy and procedure manuals and other documents and information developed or maintained by OCR; (2) easy, robust capability to search all the information in OCR's repository; (3) better quality control at the front end with simplified data entry and stronger data validation; (4) tools to help staff work on and manage their casework, and (5) supplementary document files. The system will have the capacity to generate reports concerning the status of all current and closed complaints, reviews and correspondence, and will allow OCR to track outreach, training and other activities and to locate and retrieve information in order to manage more efficiently its work and report results. In addition, PIMS, consistent with its predecessor management information systems, will allow for the tracking of work assignments to employees to facilitate workload balancing, timely response to complaints and completion of reviews, and outreach and public education initiatives focused on organizations and individuals.

OCR investigative files maintained in PIMS either as paper records or

electronic documents are records compiled for law enforcement purposes. In the course of investigations, OCR often has a need to obtain confidential information involving individuals other than the complainant. In these cases, it is necessary for OCR to preserve the confidentiality of this information to avoid unwarranted invasions of personal privacy and to assure recipients of Federal financial assistance that such information provided to OCR will be kept confidential. This assurance is often central to resolving disputes concerning access by OCR to the recipients's records, and is necessary to facilitate prompt and effective completion of the investigations.

Unrestricted disclosure of confidential information in OCR files can impede ongoing investigations, invade personal privacy of individuals, reveal the identities of confidential sources, of otherwise impair the ability of OCR to conduct investigations. For these reasons, the Department is exempting all investigative files from the notification, access, correction and amendment provisions under subsection (k)(2) of the Privacy Act.

The PIMS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include, but are not limited to: The Privacy Act of 1984, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A-130, Appendix, III, "Security of Federal Automated Information Resources." OCR has prepared a system security plan as required by OMB Circular A-130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800-18, "Guide for Developing Security Plans for Information Technology Systems." The plan includes conduct of a risk assessment that addresses the confidentiality and integrity of the data.

Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department, but technically not having the status of agency employees, if they need access to the records in order to perform their assigned agency functions.

The routine uses proposed for this system are compatible with the stated purpose of the system. The first routine use proposed for this system, permitting disclosure to a congressional office,

allows subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to the request of the individual. The second routine use allows disclosure to the Department of Justice or a court in the event of litigation. The third routine use allows referral to the appropriate agency, in the event that a System of Records maintained by this agency to carry out its functions indicates a violation or potential violation of law. The fourth routine use allows disclosure of records to contractors for the purpose of processing or refining records in the system.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: August 30, 2002.

Richard M. Campanelli,
Director, Office for Civil Rights.

09-90-0052

SYSTEM NAME:

Program Information Management System (PIMS), HHS/OS/OCR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The automated portion of the system is maintained at OCR Headquarters. Paper files are maintained in headquarters and regional offices as noted in Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered individuals include persons who file complaints alleging discrimination or violation of their rights under the statutes identified below (Authority for Maintenance) and covered entities (e.g., service providers) that are individuals and not organization or institutions, investigated by OCR as a result of complaints filed or through reviews conducted by OCR. Covered individuals also include persons who submit correspondence to OCR related to other compliance activities, (e.g., outreach and public education) and other correspondence unrelated to a complaint or review and requiring response by OCR. In addition, OCR employees who use the system to record the status of their work are covered.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system encompasses a variety of records having to do with complaints,

reviews, and correspondence. The complaint files and log include complaint allegations, information gathered during the complaint investigation, findings and results of the investigation, and correspondence relating to the investigation, as well as status information for all complaints. This component of PIMS is being exempted from the notification, access, correction and amendment provisions of the Privacy Act (see below: Systems Exempted From Certain Provisions of the Act). Equivalent types of information are maintained for reviews and correspondence activities—namely information gathered, findings, results, correspondence and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the 1964 Civil Rights Act; sections 533, 542, 794, 855, 1947 and 1908 of the Public Health Service Act; sections 504 and 508 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; the Equal Employment Opportunity Provisions of the Public Telecommunications Financing Act of 1978; Title VI and Title XVI of the Public Health Service Act (the “community services of obligation” of facilities funded under the Act); Title IX of the 1972 Education Amendments; section 407 of the Drug Abuse Office and Treatment Act; section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; section 508 of the Social Security Act, the Family Violence Prevention and Services Act; Low-Income Home Energy Assistance Act of 1981; Section 1808 of the Small Business Job Protection Act of 1996; and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

PURPOSE(S):

PIMS will be used by OCR staff and will consist of an electronic repository of information and documents, and supplementary paper document files. PIMS effectively combines and replaces OCR's two existing systems of records, the “Case Information Management System (CIMS), HHS/OS/OCR, 09-90-0050,” and the “Complaint File and Log, HHS/OS/OCR 09-00-0051,” into a single integrated system with enhanced electronic storage, retrieval and tracking capacities. While the types of information collected and stored in PIMS will be the same as the information collected in CIMS and the Complaint File and Log, PIMS will allow OCR to manage more effectively the information that it does collect. The system is designed to allow OCR to

integrate all of OCR's various business processes, including all its compliance activities, to allow for real time access and results reporting and other varied information management needs. PIMS will provide: (1) A single, central, electronic, repository of all significant OCR documents and information, including investigative files, correspondence, administrative records, policy and procedure manuals and other documents and information developed or maintained by OCR; (2) easy, robust capability to search all the information in OCR's repository; (3) better quality control at the front end with simplified data entry and stronger data validation; (4) tools to help staff work on and manage their casework, and (5) supplementary paper document files. The system will have the capacity to generate reports concerning the status of all current and closed complaints, reviews and correspondence, and will allow OCR to track outreach, training and other activities and to locate and retrieve information in order to manage more efficiently its work and report results. In addition, PIMS, consistent with its predecessor management information systems, will allow for the tracking of work assignments to employees to facilitate workload balancing, timely response to complaints and completion of review, and outreach and public education initiatives focused on organizations and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The routine uses proposed for this system are compatible with the stated purpose of the system. The first routine use proposed for this system, permitting disclosure to a congressional office, allows subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to the request of the individual. The second routine use allows disclosure to the Department of Justice or a court in the event of litigation. The third routine use allows referral to the appropriate agency, in the event that a System of Records maintained by this agency to carry out its functions indicates a violation or potential violation of law. The fourth routine use allows disclosure of records to contractors for the purpose of processing or refining records in the system.

**POLICIES AND PRACTICES FOR STRONG,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:**

STORAGE:

Automated records are maintained on magnetic disc and tape back-up. Paper records are kept in file folders.

RETRIEVABILITY:

Records are indexed by transaction number, but may be retrieved by name, street address, and other complainant or covered entity characteristic (such as type of entity, city, state and type of service provided) by OCR staff engaged in compliance activities.

SAFEGUARDS:

The PIMS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: the Privacy Act of 1984, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A-130, Appendix III, "Security of Federal Automated Information Resources." OCR has prepared a system security plan as required by OMB Circular A-130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800-18, "Guide for Developing Security Plans for Information Technology Systems." The plan includes conduct of a risk assessment that addresses the confidentiality and integrity of the data.

Only authorized users have access to the information in the system. Categories of users include: OCR investigators, regional and headquarters managers, team leaders, OCR budget and Government Performance and Results Act planning staff, program and policy staff, and data analysts. Specific access to structured around need and is determined by the person's role in the organization. Access is managed through the use of electronic access control lists, which regulate the ability to read, change and delete information in the system. Each OCR user has read access to designated information in the system, with the ability to modify only their own submissions or those of others within their region or group. Data identified as confidential is so designated and only specified individuals are granted access. The system maintains an audit trail of all actions against the data base.

All electronic data is stored on servers maintained in locked facilities with computerized access control allowing access to only those support personnel with a demonstrated need for access. A

data base is kept of all individuals granted security card access to the room, and all visitors are escorted while in the room. The server facility has appropriate environmental security controls, including measures to mitigate damage to automated information system resources caused by fire, electricity, water and inadequate climate controls.

Access control to servers, individual computers and databases includes a required user log-on with a password, inactivity lockout to systems based on a specified period of time, legal notices and security warnings at log-on, and remote access security that allows user access for remote users (e.g., while on government travel) under the same terms and conditions as for users within the office. System administrators have appropriate security clearance.

Printed materials are filed in secure cabinets in secure Federal buildings with access based on need as described above for the automated component of the PIMS system.

RETENTION AND DISPOSAL:

Documents related to complaints and reviews are retained at OCR for two years from the date the complaint is closed and then are archived at the National Archives and Records Administration for 15 years. Correspondence is retained for one year following the end of the fiscal year in which processed.

SYSTEM MANAGER(S) AND ADDRESS:

PIMS Project Manager, Resource Management Division, Office for Civil Rights, 200 Independence Ave. SW., Room 509F, Washington, DC 20201.

NOTIFICATION PROCEDURE:

Contact System Manager (above). Include name and address of complainant, and name of the recipient against which the allegation was filed. The Department is exempting all investigative records from this provision (see below: Records Exempted).

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Request should be made to the system manager (above). The Department is exempting all investigative records from this provision (see below: Records Exempted).

CONTESTING RECORD PROCEDURE:

Contact the official(s) at the address specified under System Manager, and reasonably identify the record and specify the information to be contested and corrective action sought with

supporting justification. (These procedures are in accordance with Department Regulations (45 CFR 5b.7) **Federal Register**, October 8, 1975, page 47411.) The Department is exempting all investigative records from this provision (see below: Records Exempted).

RECORD SOURCE CATEGORIES:

Information is provided by complainants and covered entities.

RECORDS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OCR investigative records maintained in PIMS, either as paper records or electronic documents are records compiled for law enforcement purposes and will be exempt under subsection (k)(2) from the notification, access, correction and amendment provisions of the Privacy Act.

Appendix Number 1—System Locations:

This system is located at HHS offices in the following cities.

Headquarters, PIMS Project Manager, Resource Management Division, Office for Civil Rights, 200 Independence Ave. SW., Room 509F, Washington, DC 20201.
Region I, Regional Manager, OCR/HHS, J.F. Kennedy Federal Building—Room 1875, Boston, Massachusetts 02203.
Region II, Regional Manager, OCR/HHS, 26 Federal Plaza—Suite 3312, New York, NY 10278.
Region III, Regional Manager, OCR/HHS, 150 S. Independence Mall West, Suite 372, Public Ledger Building, Philadelphia, PA 19106.
Region IV, Regional Manager, OCR/HHS, Atlanta Federal Center, Suite 3B70, 67 Forsyth Street, SW., Atlanta, GA 30303.
Region V, Regional Manager, OCR/HHS, 233 N. Michigan Ave, Suite 240, Chicago, IL 60601.
Region VI, Regional Manager, OCR/HHS, 1301 Young Street, Suite 1169, Dallas, TX 75202.
Region VII, Regional Manager, OCR/HHS, 601 E. 12th Street—Room 248, Kansas City, MO 64106.
Region VIII, Regional Manager, OCR/HHS, Federal Office Building, 1961 Stout Street—Room 1185, Denver, CO 80294.
Region IX, Regional Manager, OCR/HHS, 50 United Nations Plaza—Room 322, San Francisco, CA 94102.
Region X, Regional Manager, OCR/HHS, 2201 Sixth Avenue—Suite 900, Seattle, WA 98121.

[FR Doc. 02-22602 Filed 9-5-02; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly known as the Health Care Financing Administration).

ACTION: Notice of modified or altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, CMS is proposing to modify or alter an SOR, "National Claims History (NCH)," System No. 09-70-0005. We propose to modify the purpose of this system by deleting from the NCH, a sub-file titled "Expanded Modified Medicare Provider Analysis and Review File." This sub-file is used for statistical analyses bearing on Medicare payment policies for inpatient hospital services and skilled nursing facilities. To accomplish this activity, we propose to establish in a separate notice, a new SOR, "Medicare Provider Analysis and Review (MEDPAR) System No. 09-70-0009." We propose to further reduce the scope of activities covered by the NCH with the deletion of two additional sub-files, derived from the Expanded Modified MEDPAR file, known as: "Quality of Care MEDPAR File (QC/MEDPAR)," and the "Medicare Mortality Information File (MMIF)." The QC/MEDPAR data were initially developed for the purpose of conducting research and effectiveness of care provided in hospitals. The MMIF includes mortality predictors that have been statistically derived by CMS from data provided by the hospital, national data, and the number of previous hospitalizations in all hospitals.

CMS proposes to delete published routine use number 2 authorizing disclosures to the Bureau of the Census; number 5 authorizing disclosures for statistical analysis of inpatient hospital services, number 7 authorizing disclosures to conduct research on QC/MEDPAR data, number 8 authorizing disclosures to an agency of a state government, number 9 authorizing disclosure of data derived from the MMIF, number 10 authorizing disclosures to the Railroad Retirement Board (RRB), number 12 authorizing disclosures to other insurers, number 13 authorizing disclosures to another Federal agency, number 14 authorizing disclosures to states for administration of health care programs, and an

unnumbered routine use authorizing disclosure to the Social Security Administration (SSA).

Published routine use number 2 is being deleted because it unnecessarily duplicates Exception 4 of the Privacy Act, allowing release of data to the Bureau of the Census. Routine uses number 5, 7, and 9 are no longer needed because they authorize disclosures from the MEDPAR subfiles that are being removed from this system. Disclosures permitted under routine use number 8, 10, 13, 14, and to SSA will be made a part of proposed routine use number 2. Proposed routine use number 2 will allow for release of information to "another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent." Disclosures authorized under published routine use number 12 will be combined with published routine use number 11, which authorizes disclosures to insurance companies. These disclosures to insurance companies will now be covered under proposed routine use number 4.

The security classification previously reported as "None" will be modified to reflect that the data in this system is considered to be "Level Three Privacy Act Sensitive." We are modifying the language in the remaining routine uses to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the SOR is to collect and maintain billing and utilization data on Medicare beneficiaries enrolled in hospital insurance (Part A) or medical insurance (Part B) of the Medicare program for statistical and research purposes related to evaluating and studying the operation and effectiveness of the Medicare program. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent, (3) quality Improvement Organizations (QIO), (4) other insurers for processing individual insurance claims, (5) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects, (6) support constituent requests made to a congressional

representative, (7) support litigation involving the Agency, and (8) combat fraud and abuse in certain health benefits programs. We have provided background information about the modified system in the "Supplementary Information" section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 2, 2002. To ensure that all parties have adequate time in which to comment, the modified or altered SOR will become effective 30 days from the publication of the notice, or from the date it was submitted to OMB and the congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution, CMS, Room N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Michael Rappaport, Director, Division of Enrollment and Utilization Data Development, Enterprise Databases Group, Office of Information Services, CMS, Room N3-16-28, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. The telephone number is 410-786-6759.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified System

A. Background

In 1989, CMS established an SOR titled "National Claims History, System No. 09-70-0005." This system is published at 54 FR 32482 (Aug. 8, 1989). The latest publication of this system was at 59 FR 19181 (April 22, 1994), an unnumbered routine use was added for the Social Security Administration (SSA) at 61 FR 6645 (Feb. 21, 1996), three new fraud and abuse routine uses were added at 63 FR 38414 (July 16, 1998), and at 65 FR 50552 (August 18, 2000), two of the fraud and abuse routine uses were revised and a third deleted.

B. Statutory and Regulatory Basis for System

Authority for maintenance of this SOR is given under the authority of sections 1874(a) and 1875 of the Social Security Act (the Act) and Title 42 United States Code (U.S.C.) 1395(l).

II. Collection and Maintenance of Data in the System.

A. Scope of the Data Collected

The system contains billing and utilization information on Medicare beneficiaries enrolled in hospital insurance or medical insurance parts of the Medicare program, as well as provider specific information. This system contains name of the beneficiary, residence address, state and county code, mailing zip code, health insurance claim (HIC) number, diagnosis and procedural codes, race, sex, date of birth, as well as the basis for the beneficiary's Medicare entitlement. The system contains provider characteristics and an assigned provider number (facility, referring/servicing physician), admission date, service dates, diagnosis and procedure codes, total charges, Medicare payment amount, and beneficiary's liability.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release NCH information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only disclose the minimum personal data necessary to achieve the purpose of NCH. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. In general, disclosure of information from the SOR will be approved only for the minimum information necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to assist in a variety of health care initiatives with other entities related to the evaluation and study of the operation and effectiveness of the Medicare program.

2. Determines that:

- a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

- b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

- c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

- a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

- b. Remove or destroy at the earliest time all individually-identifiable information; and

- c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the NCH without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We propose to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this SOR.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and

efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent pursuant to agreements with CMS to:

- a. Contribute to the accuracy of CMS's proper payment of Medicare benefits; and/or

- b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.

- c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require NCH information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

The Internal Revenue Service may require NCH data for the application of tax penalties against employers and employee organizations that contribute to Employer Group Health Plan or Large Group Health Plans that are not in compliance with 42 U.S.C. 1395y(b).

In addition, state agencies in their administration of a Federal health program may require NCH information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and /or the quality of health care services provided in the state.

The RRB requires NCH information to enable them to assist in the implementation and maintenance of the Medicare program.

SSA requires NCH data to enable them to assist in the implementation and maintenance of the Medicare program.

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the

administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state.

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require NCH information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this SOR.

3. To Quality Improvement Organization (QIO) in connection with review of claims, or in connection with studies or other review activities conducted pursuant to Part B of Title XI of the Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

QIOs will work to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. QIOs will assist the state agencies in related monitoring and enforcement efforts, assist CMS and intermediaries in program integrity assessment, and prepare summary information for release to CMS.

4. To insurance companies, underwriters, third party administrators (TPA), employers, self-insurers, group health plans, health maintenance organizations (HMO), health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting: (a) An individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer (MSP) provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

- a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;
- b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers may require NCH information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

5. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, and the restoration or maintenance of health, or payment related projects.

NCH data will provide for research, evaluations and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

6. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries often request the help of a Member of Congress in resolving an issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

7. To the Department of Justice (DOJ), court, or adjudicatory body when:

- a. The Agency or any component thereof, or
- b. Any employee of the Agency in his or her official capacity, or
- c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or
- d. The United States Government,

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program,

when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require NCH information for the purpose of combating fraud and abuse in such Federally funded programs.

B. Additional Circumstances Affecting Routine Use Disclosures

This SOR contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 (Dec. 28, 00), as amended by 66 FR 12434 (Feb. 26, 01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell

sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

A. Administrative Safeguards

The NCH system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: the Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and the Office of Management and Budget (OMB) Circular A-130, Appendix III, "Security of Federal Automated Information Resources." CMS has prepared a comprehensive system security plan as required by OMB Circular A-130. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800-18, "Guide for Developing Security Plans for Information Technology Systems." Paragraphs A-C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

Authorized users: Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees and contractors who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To assure security of the data, the proper level of class user is assigned for each individual user as determined at the Agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- Database Administrator class owns the database objects; *e.g.*, tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;

- Quality Control Administrator class has read and write access to key fields in the database;

- Quality Indicator Report Generator class has read-only access to all fields and tables;

- Policy Research class has query access to tables, but are not allowed to access confidential individual identification information; and

- Submitter class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the NCH system:

Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination that grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- User Log-ons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.

- Workstation Names—Workstation naming conventions may be defined and implemented at the Agency level.

- Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the Agency level.

- Inactivity Log-out—Access to the NT workstation is automatically logged out after a specified period of inactivity.

- Warnings—Legal notices and security warnings display on all servers and workstations.

- Remote Access Services (RAS)—Windows NT RAS security handles

resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Modified System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein.

We will only disclose the minimum personal data necessary to achieve the purpose of NCH. Disclosure of information from the SOR will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09-70-0005

SYSTEM NAME:

National Claims History, HHS/CMS/OIS.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains billing and utilization information on Medicare beneficiaries enrolled in hospital insurance (Part A) or medical insurance (Part B) of the Medicare program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains Medicare billing and utilization data, name of the beneficiary, health insurance claim (HIC) number, diagnosis and procedural codes, race, sex, date of birth, residence address, state and county code, mailing zip code, as well as the basis for the beneficiary's Medicare entitlement. The system contains provider characteristics, assigned provider number (facility, referring/servicing physician), admission date, service dates, diagnosis and procedure codes, total charges, Medicare payment amount, and beneficiary's liability.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under the authority of sections 1874(a) and 1875 of the Act and Title 42 United States Code (U.S.C.), section 1395 (ll).

PURPOSE(S)

The primary purpose of the SOR is to collect and maintain billing and utilization data on Medicare beneficiaries enrolled in hospital insurance (Part A) or medical insurance (Part B) of the Medicare program for statistical and research purposes related to evaluating and studying the operation and effectiveness of the Medicare program. Information in this system will also be used to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, (2) another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent, (3) Quality Improvement Organizations (QIO), (4) other insurers for processing individual insurance claims, (5) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects, (6) support constituent requests made to a congressional representative, (7) support litigation involving the Agency, and (8) combat fraud and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine use in this system meets the compatibility requirement of the Privacy Act. In addition, this SOR contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 (Dec. 28, 00), as amended by 66 FR 12434 (Feb. 26, 01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information." It is also our policy to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). We are proposing to establish the following routine use disclosures of information that will be maintained in the system:

1. To Agency contractors or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.
2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent pursuant to agreements with CMS to:
 - a. Contribute to the accuracy of CMS's proper payment of Medicare benefits, and/or
 - b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds.
 - c. Assist Federal/state Medicaid programs within the state.
3. To Quality Improvement Organizations (QIO) in connection with review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI

of the Social Security Act and in performing affirmative outreach activities to individuals for the purpose of establishing and maintaining their entitlement to Medicare benefits or health insurance plans.

4. To insurance companies, underwriters, third party administrators, employers, self-insurers, group health plans, health maintenance organizations, health and welfare benefit funds, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, other groups providing protection against medical expenses of their enrollees without the beneficiary's authorization, and any entity having knowledge of the occurrence of any event affecting (a) an individual's right to any such benefit or payment, or (b) the initial right to any such benefit or payment, for the purpose of coordination of benefits with the Medicare program and implementation of the Medicare Secondary Payer provision at 42 U.S.C. 1395y (b). Information to be disclosed shall be limited to Medicare utilization data necessary to perform that specific function. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a third party administrator;

b. Utilize the information solely for the purpose of processing the individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

5. To an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, and the restoration or maintenance of health, or payment related projects.

6. To a Member of Congress or congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are

both relevant and necessary to the litigation.

8. To a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on both tape cartridges (magnetic storage media) and in a DB2 relational database management environment (DASD data storage media).

RETRIEVABILITY:

Information is most frequently retrieved by HIC, provider number (facility, physician, supplier IDs), service dates, type of bill, Medicare status code, diagnoses, procedure codes, and beneficiary state code.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the NCH

system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS Automated Information Systems Guide, Systems Securities Policies, and OMB Circular No.A-130, Appendix III.

RETENTION AND DISPOSAL:

Records are maintained with identifiers for all transactions after they are entered into the system for a period of 20 years. Records are housed in both active and archival files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Enrollment and Utilization Data Development, Enterprise Databases Group, Office of Information Services, CMS, Room N3-16-28, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

NOTIFICATION PROCEDURE:

For purpose of notification, the subject individual should write to the system manager who will require the system name, and the retrieval selection criteria (e.g., HIC, facility ID, physician/supplier number, service dates, type of bill, etc.).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Fee-for-Service (FFS) billing and utilization information contained in this records system is obtained from the Common Working File, System No. 09-70-0526. Medicare+Choice (M+C) organization utilization information to be contained in this records system will

be obtained from a single front-end processor that will function as both a Fiscal Intermediary (System No. 09-70-0503) and Carrier (System No. 09-70-0501).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02-22741 Filed 9-5-02; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of new system of records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called the "Correspondence Tracking Management System (CTMS)," HHS/CMS/OSORA No. 09-70-3005. The CMTS replaces the Correspondence and Assignment Tracking and Control System (CATCS), System No. 09-70-9001 that was deleted from CMS' database inventory through a published notice in the **Federal Register**. The primary purpose of the system of records is to aid CMS in tracking incoming correspondence about CMS programs from the Office of the Secretary, Medicare beneficiaries and Medicaid recipients. In addition, it will track all correspondence from the public, other government agencies, contractors, and members of the Congress. Information retrieved from this system of records will be used to support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; support constituent requests made to a Congressional representative; and support litigation involving the agency.

We have provided background information about the proposed system in the "Supplementary Information" section, below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, CMS invites comments on all portions of this notice. See "Effective Dates" section for comment period.

EFFECTIVE DATES: CMS filed a new system report with the Chair of the House Committee on Government

Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 20, 2002. In any event, we will not disclose any information under a routine use until forty (40) calendar days after publication. We may defer implementation of this system of records or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), CMS, Room N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Chris Worrall, Division of Correspondence Control, Office of Communications and Operations Support, CMS, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

SUPPLEMENTARY INFORMATION:

I. Description of the New System of Records

A. Statutory and Regulatory Basis for System of Records

42 CFR 401.101-401.148 and 1106(a) of the Social Security Act, 42 U.S.C. 1306(a).

B. Background

The CMTS is being established to replace the Correspondence and Assignment Tracking and Control System (CATCS), System No. 09-70-9001 that was deleted from CMS' database inventory through a published notice in the **Federal Register**.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The CMTS includes the following information: name and address of correspondent(s); subject of request; Centers/Office to which case is assigned, correspondence control number, date of initial entry and any subsequent updating, location of case, due date, type(s) of information requested, any cross reference, incoming correspondence, response and if provided in the correspondence, information about a beneficiary (*e.g.*, name, address, Social Security Number.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release CMTS information that can be associated with an individual as provided for under "Section III. Entities Who May Receive Disclosures Under Routine Use." Both identifiable and non-identifiable data may be disclosed under a routine use. Identifiable data includes individual records with CMTS information and identifiers. Non-identifiable data includes individual records with CMTS information and masked identifiers or CMTS information with identifiers stripped out of the file.

CMS will only disclose the minimum personal data necessary to achieve the purpose of the CMTS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. In general, disclosure of information from the SOR will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data are being collected; *e.g.*, track, control, and respond to correspondence from the public, other government agencies, contractors, and members of the Congress.
2. Determines that:
 - a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;
 - b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and
 - c. There is a strong probability that the proposed use of the data would, in fact, accomplish the stated purpose(s).
3. Requires the information recipient to:
 - a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;
 - b. Remove or destroy at the earliest time all individually, identifiable information; and
 - c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities That May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the CMTS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. CMS proposes to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, or consultants that have been contracted by the agency to assist in the performance of a service related to this system of records and that need to have access to the records in order to perform the activity.

CMS contemplates disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing agency business functions relating to purposes for this system of records.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract and requires the contractor to return or destroy all information at the completion of the contract.

2. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

Individuals sometimes request the help of a Member of Congress in resolving some issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

- a. The agency or any component thereof, or
- b. Any employee of the agency in his or her official capacity; or
- c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or
- d. The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which CMS collects the information.

B. Additional Provisions Affecting Routine Use Disclosures

In addition, CMS policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

This System of Records contains Protected Health Information as defined by the Department of Health and Human Services' regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 as amended by 66 FR 12434). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

IV. Safeguards

The CMTS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: the Privacy Act of 1974, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A-130,

Appendix III, "Security of Federal Automated Information Resources." CMS has prepared a comprehensive system security plan as required by OMB Circular A-130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800-18, "Guide for Developing Security Plans for Information Technology Systems." Paragraphs A-C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. Records are used in a designated work area and system location is attended at all times during working hours.

To ensure security of the data, the proper level of class user is assigned for each individual user level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- *Database Administrator* class owns the database objects (e.g., tables, triggers, indexes, stored procedures, packages) and has database administration privileges to these objects.
- *Quality Control Administrator* class has read and write access to key fields in the database;
- *Quality Index Report Generator* class has read-only access to all fields and tables;
- *Policy Research* class has query access to tables, but are not allowed to access confidential patient identification information; and
- *Submitter* class has read and write access to database objects, but no database administration privileges.

B. Physical Safeguards

All server sites will implement the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the CMS system:

Access to all servers is to be controlled, with access limited to only those support personnel with a

demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server is to require a specific log-on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination, which grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information Systems (AIS) resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- *User Log-on—Authentication* is to be performed by the Primary Domain Controller/Backup Domain Controller of the log-on domain.
- *Workstation Names—Workstation naming conventions* may be defined and implemented at the agency level.
- *Hours of Operation—May be restricted by Windows NT.* When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are to be determined and implemented at the agency level.
- *Inactivity Lockout—Access to the NT workstation* is to be automatically locked after a specified period of inactivity.
- *Warnings—Legal notices and security warnings* are to be displayed on all servers and workstations.
- *Remote Access Security—Windows NT Remote Access Service (RAS)* security handles resource access control. Access to NT resources is to be controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security. These include, but are not limited to: the Privacy Act of 1974; the Computer Security Act of 1987; OMB Circular A-130, revised; Information Resource Management Circular #10; HHS AIS Security Program; the CMS Information Systems Security Policy, Standards, and Guidelines Handbook;

and other CMS systems security policies. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effects of the New System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will monitor the collection and reporting of CMTS data. CMTS information is submitted to CMS through standard systems. CMS will use a variety of onsite and offsite edits and audits to increase the accuracy of CMTS data.

CMS will take precautionary measures (see item IV., above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of maintaining this system of records.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

09-70-3005

SYSTEM NAME:

Correspondence Tracking Management System, (CMTS).

SECURITY CLASSIFICATION:

Level 3, Privacy Act Sensitive.

SYSTEM LOCATION:

HCFA Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850. CMS contractors and agents at various locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records will contain data on any correspondent whose letter is sent to CMS and on individuals referenced in such correspondence (*e.g.*, beneficiaries, the public, other government agencies, contractors, and members of the Congress).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains incoming correspondence, responses to correspondence and information CMS uses to track correspondence, and *e.g.* CMTS control number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 CFR 401.101-401.148 and sec 1106(a) of the Social Security Act, 42 U.S.C. 1306(a).

PURPOSE(S):

The primary purpose of the system of records is to aid CMS in tracking incoming correspondence about CMS programs from the Office of the Secretary, Medicare beneficiaries and Medicaid recipients. In addition, it will track all correspondence from the public, other government agencies, contractors, and members of the Congress. Information retrieved from this system of records will be used to support regulatory, reimbursement, and policy functions performed within the agency or by a contractor or consultant; support constituent requests made to a Congressional representative; and support litigation involving the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the CMTS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, CMS policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary). Be advised,

this System of Records contains Protected Health Information as defined by the Department of Health and Human Services' (HHS) regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 8462 as amended by 66 FR 12434). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

1. To agency contractors, or consultants that have been contracted by the agency to assist in the performance of a service related to this system of records and that need to have access to the records in order to perform the activity.

2. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

Name of correspondent, name of individual referenced in the correspondence, or correspondence control number retrieves the records.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to

protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the CMS system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines; *e.g.*, security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS Information Systems Security, Standards Guidelines Handbook and OMB Circular No. A-130 (revised) Appendix III.

RETENTION AND DISPOSAL:

The records are maintained on-line in the system for 2 years. After a 2-year period, records are transferred to an archive file and destroyed three years later.

Due to a freeze imposed by the Department of Justice in 1992, correspondence documenting/supporting a specific claim, reconsideration, appeal or similar case will be maintained until further notice. Once the freeze is lifted, destroy 6 years and 3 months after final payment/resolution.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Correspondence Control, Office of Communications and Operations Support, Health Care Financing Administration, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager, who will require the system name, the subject individual's name (woman's maiden name, if applicable), social security number (SSN) (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay), address, date of correspondence.

RECORD ACCESS PROCEDURES:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Incoming correspondence and responses to such correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02-22742 Filed 9-5-02; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01P-0343]

Orthopedic Devices; Denial of Request for Change in Classification of Hip Joint Metal/Metal Semi-Constrained, With a Cemented Acetabular Component, Prosthesis and Hip Joint Metal/Metal Semi-Constrained, With an Uncemented Acetabular Component, Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; denial of petition.

SUMMARY: The Food and Drug Administration (FDA) is denying the petition submitted by the Orthopedic Surgical Manufacturers Association (OSMA) to reclassify the hip joint metal/metal semi-constrained prosthesis with a cemented acetabular component and the hip joint metal/metal semi-constrained prosthesis with an uncemented acetabular component from class III (premarket approval) into class II (special controls). The agency is denying the petition because OSMA failed to provide any new information to establish that special controls would provide reasonable assurance of the safety and effectiveness of the devices. The agency is also publishing the recommendation of FDA's Orthopedic and Rehabilitation Devices Panel (the Panel) concerning the petition. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA).

FOR FURTHER INFORMATION CONTACT:

Glenn A. Stiegman, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-2036.

SUPPLEMENTARY INFORMATION:

I. Classification and Reclassification of Devices Under the Amendments

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94-295), SMDA (Public Law 101-629) and FDAMA (Public Law 105-115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval). Except as provided in section 520(c) of the act (21 U.S.C. 360j(c)), FDA may not use confidential information concerning a device's safety and effectiveness as a basis for reclassification of the device from class III into class II or class I.

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendment devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in

section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section of the act provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based on "new information." The reclassification can be initiated by FDA or by the petition of an interested person. The term "new information," as used in section 513(e) and 515(b)(2)(A)(iv) of the act (21 U.S.C. 360e(b)(2)(A)(iv)), includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos v. United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn v. Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell v. Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell v. Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc. v. FDA*, 762 F.Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in "medical science." (See *Upjohn v. Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the "new information" upon which reclassification under section 513(e) of the act is based must consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, e.g., *General Medical Co. v. FDA*, 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc. v. FDA*, 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1985)). FDA relies upon "valid scientific evidence" in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending premarket approval application (PMA). (See section 520(c) of the act.)

II. Background

In the **Federal Register** of September 4, 1987 (52 FR 33686 at 33706), FDA issued a final rule classifying the hip joint metal/metal semi-constrained prosthesis with a cemented acetabular

component and the hip joint metal/metal semi-constrained prosthesis with an uncemented acetabular component, (the hip joint metal/metal semi-constrained prostheses) into class III (21 CFR 888.3330 and 888.3320, respectively). In the preamble to the proposal to classify these devices (47 FR 29052, July 2, 1982), the Panel identified the following risks to health associated with use of the devices: Loss or reduction of joint function, adverse tissue reactions, and infection.

In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for the hip joint metal/metal semi-constrained prostheses. FDA updated its priorities in the preamendments class III strategy notice of availability published in the **Federal Register** of May 6, 1994 (59 FR 23731). The agency categorized the hip joint metal/metal semi-constrained prostheses as high priority group 3 devices, devices the agency considered to have a low probability of being reclassified into class I or class II. FDA has determined that the devices identified have a high priority for initiating a proceeding to require premarket approval.

On September 25, 2000, FDA received a petition (Ref. 1) from OSMA requesting that the classification of hip joint metal/metal semi-constrained prostheses be changed from class III into class II.

III. Device Descriptions

FDA has identified the hip joint, metal/metal semi-constrained prosthesis with a cemented acetabular component and the hip joint, metal/metal semi-constrained prosthesis with a cemented acetabular component as follows: A hip joint metal/metal semi-constrained prosthesis with a cemented acetabular component, prosthesis is a two part device intended to be implanted to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of its articulation surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those prostheses intended for use with bone cement.

A hip joint metal/metal semi-constrained prosthesis with an uncemented acetabular component is a two part device intended to be implanted to replace a hip joint. The device limits translation and rotation in one or more planes via the geometry of

its articulation surfaces. It has no linkage across-the-joint. This generic type of device includes prostheses that consist of a femoral and an acetabular component, both made of alloys, such as cobalt-chromium-molybdenum. This generic type of device is limited to those prostheses intended for use without bone cement.

IV. Recommendation of the Panel

In a public meeting on August 8, 2001, the Panel recommended five to two that the hip joint metal/metal semi-constrained prostheses not be reclassified from class III into class II (Ref. 2). The Panel concluded that the information in the petition did not demonstrate that special controls would provide reasonable assurance of safety and effectiveness of the device and that there was not sufficient information to establish special controls for the device. Specifically, the Panel determined that there was insufficient clinical and preclinical testing information to establish special controls. The Panel concluded that the length and rate of the long-term patient followup data were inadequate to demonstrate that special controls would provide reasonable assurance that the devices are safe and effective for their intended use. In addition, the Panel discussed that preclinical information, including validation of wear simulation, nonideal preclinical wear testing, and biological evaluation of metallic wear debris generated by the devices were not established. The particle size of the metallic wear debris generated by these devices is substantially smaller than the particle size of the metallic wear debris generated by other hip joint prostheses, and the short- and long-term biological effects from human retrievals or preclinical evaluation of these smaller-size metallic wear particles, are unknown. The Panel believed that premarket approval is necessary for the devices because there is insufficient information to establish that special controls would provide reasonable assurance of their safety and effectiveness.

V. FDA's Conclusion

Based on its review of the information contained in the petition and presented at the Panel meeting, as well as the Panel's discussion, the agency concurred with the Panel's recommendations. FDA agrees that there is insufficient valid scientific evidence to determine that special controls, in addition to the general controls applicable to all devices, would provide reasonable assurance of the devices' safety and effectiveness for their

intended use. The agency, therefore, is denying the petition.

VI. Reasons for the Denial

FDA has determined that the clinical and preclinical information in the petition is insufficient to support the requested change in classification of these devices. FDA believes that additional clinical data, including a longer patient followup time and a higher rate of patient followup, are necessary to develop special controls to ensure the safety and effectiveness of these devices. The agency believes that additional preclinical data, including the validation of hip simulation and nonideal wear testing of the devices at extreme loading angles, higher than normal loads, and start-stop cyclic loading, are necessary. FDA also believes that preclinical evaluation of the response to smaller sized metallic wear debris is necessary to establish special controls to provide the reasonable assurance of safety and effectiveness of the devices. FDA notes that the evaluation of the response to wear particles may include the evaluation of retrieved human devices.

In a future issue of the **Federal Register**, FDA may initiate rulemaking under section 515(b) of the act to require premarket approval for these devices. FDA notes that if new information becomes available, interested persons may submit a new reclassification petition for the devices to the agency for evaluation. FDA advises manufacturers of these device types to collect the data and information necessary to demonstrate reasonable assurance of the safety and effectiveness of their devices. This data and information should be in the form of valid scientific evidence, as defined by § 860.7, to support the least burdensome regulatory path to either remaining on the market, or entering the market for the first time. FDA believes that early data collection will more likely lead to success in obtaining premarket approval or having these device types reclassified.

VII. References

The following references have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These references may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition for Reclassification for Metal/Metal Semi-Constrained Hip Joint Prosthesis submitted by the Orthopedic Surgical Manufacturers Association, Warsaw, IN, dated September 25, 2000,

and amended on November 28, 2000, and June 4, 2001.

2. Transcript of the Orthopedic and Rehabilitation Devices Panel Meeting, August 8, 2001, pp. 1 to 244.

Dated: August 28, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02-22688 Filed 9-5-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D-0325]

Medical Devices; Draft Guidance; Medical Devices Made With Polyvinylchloride Using the Plasticizer di-(2-Ethylhexyl)phthalate; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Medical Devices Made With Polyvinylchloride (PVC) Using the Plasticizer di-(2-Ethylhexyl)phthalate (DEHP); Draft Guidance for Industry and FDA." Through this draft guidance, FDA is proposing to offer suggestions to manufacturers who fabricate their PVC devices using the plasticizer DEHP. The guidance recommends ways that manufacturers may reduce or eliminate potential risks that may be associated with DEHP. This draft guidance is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on this guidance by December 5, 2002.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the guidance document entitled "Medical Devices Made With Polyvinylchloride (PVC) Using the Plasticizer di-(2-Ethylhexyl)phthalate (DEHP); Draft Guidance for Industry and FDA" to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ-220), Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301-443-8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written comments concerning this guidance to the Dockets

Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

FOR FURTHER INFORMATION CONTACT:

Robert Gatling, Center for Devices and Radiological Health (HFZ-404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-594-1190.

SUPPLEMENTARY INFORMATION:

I. Background

DEHP is recognized as an important chemical ingredient that affords PVC many of the physical properties that make the material optimally suited for use in many of today's medical devices. DEHP is a chemical whose long-term effects on the human body are unknown. In this draft guidance, FDA is suggesting that manufacturers label certain devices with their DEHP content and consider eliminating the use of DEHP in certain devices that can result in high aggregate exposures in sensitive patient populations.

FDA recognizes that many devices with PVC containing DEHP are not used in ways that result in significant human exposure to the chemical. Therefore, this draft guidance focuses on the small subset of medical devices where PVC containing DEHP may come in contact with the tissue of a sensitive patient population in a manner and for a period of time that may raise concerns about the aggregate exposure to DEHP.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on medical devices made with PVC using the plasticizer DEHP. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

In order to receive the "Medical Devices Made With Polyvinylchloride (PVC) Using the Plasticizer di-(2-Ethylhexyl)phthalate (DEHP); Draft Guidance for Industry and FDA" via your fax machine, call the CDRH Facts-On-Demand system at 800-899-0381 or 301-827-0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt press 1 to order a document. Enter the document number (1407) followed by the pound

sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at <http://www.fda.gov/cdrh>. A search capability for all CDRH guidance documents is available at <http://www.fda.gov/cdrh/guidance.html>. Guidance documents are also available on the Dockets Management Branch Internet site at <http://www.fda.gov/ohrms/dockets>.

IV. Comments

You may submit to the Dockets Management Branch (*see ADDRESSES*) written or electronic comments regarding this draft guidance by December 5, 2002. You must submit two copies of any comments. Individuals may submit one copy. You must identify comments with the docket number found in brackets in the heading of this document. The draft guidance document and any received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 28, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 02-22687 Filed 9-5-02; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4736-N-13]

Notice of Proposed Information Collection for Public Comment for Report on Occupancy for Public and Indian Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: November 5, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4249, Washington, DC 20410-5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708-0614, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed

collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Report on Occupancy for Public and Indian Housing.

OMB Control Number: 2577-0028.

Description of the need for the information and proposed use: Housing Agencies (HAs) are required to submit occupancy information to HUD electronically for monitoring dwelling, nondwelling, demolished, boarded-up, under repair/modernization rehabilitation or vacant units. The information should be verified on the Form HUD-51234 before it is submitted electronically. The information enables HUD to monitor the rate and extent at which the Low-income Public Housing Program is being used by HAs to assist low-income families.

Agency form number: HUD-51234.

Members of affected public: State, Tribal or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 3400 respondents. Report period end date which shall be the date which is the last day of the month ending six months before the start of the PHA's Requested Budget. Year (BBY), one hour average per response; total annual reporting burden 3400 hours.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 3, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210-33-M

OMB Approval No. 2577-0028 (exp.

2. Report Date (mm/dd/yyyy):

Date Prepared: _____

This is page () of () pages

ref. Handbook 7465.3

5/92)

[FR Doc. 02-22750 Filed 9-5-02; 8:45 am]
BILLING CODE 4210-33-C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4734-N-42]

Notice of Submission of Proposed Information Collection to OMB; Loan Servicing of All Three Coinsurance Programs: Section 221(d), Section 223(f), and Section 232

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 7, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502-0314) and

should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395-6974; e-mail *Lauren Wittenberg@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT:

Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne.Eddins@HUD.gov*; telephone (202) 708-2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable;

(6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Loan Servicing of all Three Coinsurance Programs: Section 221(d), Section 223(f), and Section 232.

OMB Approval Number: 2502-0314.

Form Numbers: HUD-9817.

Description of the Need for the Information and its Proposed Use: Evaluation of the financial, physical, and managerial adequacy of multifamily housing, retirement service centers, and nursing homes with insured loans under Secs. 223(f), 221(d), 232.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	16		1		67.5		1,080

Total Estimated Burden Hours: 1,080.

Status: Reinstatement, with change of previously approved collection which has expired.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 30, 2002.

Wayne Eddins,

*Departmental Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 02-22749 Filed 9-5-02; 8:45 am]

BILLING CODE 4210-72-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4730-N-36]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE September 6, 2002.

FOR FURTHER INFORMATION CONTACT:

Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no

additional properties have been determined suitable or unsuitable this week.

Dated: August 29, 2002.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 02-22529 Filed 9-5-02; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463).

Meeting Date and Time: Friday, September 13, 2002, Time 1:30 p.m. to 4 p.m.

Address: Washington Crossing Historic Park, 1112 River Road, Washington Crossing, PA 18977.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100-692, November 18, 1988 and extended through Public Law 105-355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A-208, Bethlehem, PA 18018, (610) 861-9345.

Dated: August 29, 2002.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 02-22683 Filed 9-5-02; 8:45 am]

BILLING CODE 6820-PE-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

CA-668-1040 (P)]

Reopening of Call for Nomination for the Santa Rosa and San Jacinto Mountains National Monument Advisory Committee

AGENCIES: Bureau of Land Management, Interior; Forest Service, Agriculture.

ACTION: Notice of re-open of a call for nominations for the Santa Rosa and San Jacinto Mountains National Monument Advisory Committee.

SUMMARY: Under the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, Public Law 106-351 (16 U.S.C. 431 note), the Department of the Interior's Bureau of Land Management and the Department of Agriculture's U.S. Forest Service are re-opening nominations for five members of the public to serve on the Santa Rosa and

San Jacinto Mountains National Monument Advisory Committee. Nominations will be accepted for thirty days following the publication date of this notice.

The call for nominations is for representatives for the County of Riverside, the cities of Indian Wells and Cathedral City, the Coachella Valley Mountains Conservancy, and the Winter Park Authority.

Committee members will be appointed to serve 3-year terms and may be nominated for reappointment for an additional three-year term. The three-year term would begin November 2002. All members will serve without pay but will be reimbursed for travel and per diem expense at the current rates for government employees under 5 U.S.C. 5703. The Secretary of the Interior will make appointments to the Committee with the concurrence of the Secretary of Agriculture.

The Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Act) required that the Secretaries of the Interior and Agriculture establish a National Monument Advisory Committee (Committee) to advise them on resource management issues associated with the Santa Rosa and San Jacinto Mountains National Monument, specifically providing guidance on the National Monument Plan. This notice requests the public to submit nominations for five memberships on the Committee. The Committee is managed under the provisions of the Federal Advisory Committee Act.

SUPPLEMENTARY INFORMATION: As directed by the Act, the Secretary of the Interior and the Secretary of Agriculture jointly established an advisory committee for the Santa Rosa and San Jacinto Mountains National Monument (Monument). The Committee's purpose is to advise the Secretaries with respect to the preparation and implementation of a management plan for the Monument. The Committee meets every other month on a Saturday. The purpose of the Committee is to gather and analyze information, conduct studies and field examinations, hear public testimony, ascertain facts, and, in an advisory capacity only, develop recommendations concerning planning for the management and uses of the National Monument. The designated Federal officer, or his or her designee, in connection with special needs for advice, may call additional meetings. A Committee Chairperson and Vice Chairperson will be elected by the Committee from among its' members annually.

Any individual or organization may nominate one or more persons to serve

on the Committee. Individuals may nominate themselves for Committee membership. You may obtain nomination forms from the BLM or Forest Service by contacting the individuals listed in **ADDRESSES** above. To make a nomination, you must submit a completed nomination form, letters of reference from the represented interests or organization, and any other information that speaks to the nominee's qualification, to the offices listed above. You may make nominations for the following categories of interest, as specified in the Act: (1) A representative of the County of Riverside, California; (2) a representative from each of the following cities: Cathedral City and Indian Wells; (3) a representative of the Coachella Valley Mountains Conservancy; (4) a representative of the Winter Park Authority. Nominations to the Committee should describe and document the proposed member's qualifications for membership on the Advisory Committee.

DATES: Submit nominations to the address listed below no later than 30 days after the publication of this notice to re-open the call for nominations in the **Federal Register**.

ADDRESSES: Send nominations to: Advisory Committee Nominations, Ms. Danella George, Bureau of Land Management, P.O. Box 581260, North Palm Springs, California, 92258-1260.

FOR FURTHER INFORMATION CONTACT: Ms. Danella George, Santa Rosa and San Jacinto Mountains National Monument, (760) 251-4800.

Dated: August 29, 2002.

Elena Misquez,

Associate Field Manager, Palm Springs/South Coast Field Office, Bureau of Land Management.

Laurie Rosenthal,

District Ranger, San Jacinto Ranger District, San Bernardino National Forest.

[FR Doc. 02-22653 Filed 9-5-02; 8:45 am]

BILLING CODE 4310-33-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-446]

Agriculture: Probable Economic Effects on the U.S. Economy of Eliminating or Reducing U.S. Tariffs on Certain Products From FTAA Countries and WTO Members

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and invitation for written submissions.

EFFECTIVE DATE: August 30, 2002.

SUMMARY: Following receipt of a request on August 16, 2002, from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-446, Agriculture: Probable Economic Effects on the U.S. Economy of Eliminating or Reducing U.S. Tariffs on Certain Products from FTAA Countries and WTO Members, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Background

As requested by USTR, the Commission will prepare assessments of the probable economic effects on the economy as a whole of (1) eliminating U.S. tariffs on certain agricultural products from 33 countries within the Free Trade Area of the Americas (FTAA), and (2) eliminating and reducing by 50 percent U.S. tariffs on certain agricultural products from World Trade Organization (WTO) member.¹ The list of the products attached to the USTR's letter and covered in this investigation is available electronically from EDIS-ON-LINE, or from the Office of the Secretary at 202-205-2000. The Commission plans to submit its report by November 15, 2002. USTR indicated that portions of the report will be classified as "Confidential."

FOR FURTHER INFORMATION CONTACT:

Industry-specific information may be obtained from Ronald Babula, Project Leader (202-205-3331 or babula@usitc.gov) or Stephen Burket, Chief, Agricultural Crops and Specialty Products Branch (202-205-3318 or burket@usitc.gov), Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202-205-3091 or wgearhart@usitc.gov). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205-1810. General information concerning the Commission may also be

obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public/>.

Written Submissions

The Commission does not plan to hold a public hearing in connection with this investigation. However, interested parties are invited to submit written statements (original and 14 copies) concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include such confidential business information in the report it sends to USTR. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on September 19, 2002. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

List of Subjects

FTAA, WTO, tariffs, and trade.

By order of the Commission.
Issued: August 30, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-22704 Filed 9-5-02; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[USITC SE-02-027]

Sunshine Act Meeting

AGENCY: International Trade Commission.

TIME AND DATE: September 12, 2002 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agenda for future meeting:* None.
 2. Minutes
 3. Ratification List.
 4. Inv. Nos. 701-TA-376-377 and 379 and 731-TA-788-793 (Final)(Remand)(Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' views on remand to the Court of International Trade on or before September 27, 2002.)
 5. Inv. Nos. 701-TA-309-A-B and 731-TA-528 (Review)(Remand)(Pure Magnesium from Canada)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' views on remand to the NAFTA Binational Panel on or before October 15, 2002.)
 6. *Outstanding action jackets:* None.
- In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: September 3, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02-22780 Filed 9-4-02; 11:05 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Lamplight Equestrian Center, Inc.*, Civil Action No. 00 C 6486 N.D. Ill. 2000), was lodged with the United States District Court for the Northern District of Illinois on August 23, 2002. This proposed Consent Decree concerns a complaint filed by the United States of America against

¹ For the purposes of this study, the 33 FTAA countries include Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela. The 143 WTO members countries (excluding the United States) will be aggregated into a single area. Although the Bahamas, China, and Taiwan were not WTO members during this study's 1997-2001 analysis period, they are included in the analysis of the WTO member countries.

Lamplight Equestrian Center, Inc., pursuant to section 301 of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendant for causing fill and/or dredged material to be discharged into waters of the United States located at a wetland in Wayne, Illinois.

The proposed Consent Decree prohibits Lamplight from discharging any pollutant into waters of the United States, unless such discharge complies with the provisions of the Clean Water Act and its implementing regulations, and requires the payment of a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Lisa Noller, Assistant U.S. Attorney, 219 S. Dearborn, 5th Floor, Chicago, Illinois, 60604 and refer to this case name and civil action number.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of Illinois. In addition, the proposed Consent Decree may be viewed on the World Wide Web at <http://www.usdoj.gov/enrd/enrd-home.html>.

Lisa M. Noller,

Assistant United States Attorney, United States Attorney's Office, Chicago, Illinois.

[FR Doc. 02-22643 Filed 9-5-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States v. Liberty Property Trust, Liberty Property Development Corp., Liberty Property Limited Partnership, Rouse & Associates—1180 Church Road, Rouse & Associates—1180 Church Road Limited Partnership, and 900 Church Road Land Limited Partnership* ("Settling Defendants"), Civil Action No. 02-6896, was lodged with the United States District Court for the Eastern District of Pennsylvania on August 23, 2002. This Consent Decree resolves claims of the United States against the Settling Defendants under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a). The Consent Decree requires

the Settling Defendants to pay \$83,750 in reimbursement of past response costs for the North Penn Area Seven Superfund Site located in Lansdale Borough and Upper Gwynedd Township, Montgomery County, Pennsylvania.

The Department of Justice will accept written comments on the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044-7611, and refer to *United States v. Liberty Property Trust, Liberty Property Development Corp., Liberty Property Limited Partnership, Rouse & Associates—1180 Church Road, Rouse & Associates—1180 Church Road Limited Partnership, and 900 Church Road Land Limited Partnership*, DOJ #90-11-2-06024/7.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Philadelphia, PA 19106 and at EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed Consent Decree may be obtained by mail from the U.S. Department of Justice, Consent Decree Library, PO Box 7611, Washington, DC 20044-7611. When requesting a copy of the proposed Consent Decree, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the "U.S. Treasury" in the amount of \$6.00 (for Decree without appendices) or \$78.25 (for Decree with appendices) and please reference *United States v. Liberty Property Trust, Liberty Property Development Corp., Liberty Property Limited Partnership, Rouse & Associates—1180 Church Road, Rouse & Associates—1180 Church Road Limited Partnership, and 900 Church Road Land Limited Partnership*, DOJ #90-11-2-06024/7.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice

[FR Doc. 02-22642 Filed 9-5-02; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2232-02; AG Order No. 2612-2002]

Registration and Monitoring of Certain Nonimmigrants From Designated Countries

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: The Attorney General is authorized by regulation to require, by notice in the **Federal Register**, and after consultation with the Secretary of State, that certain nonimmigrant aliens from specified countries be subject to special registration requirements (including fingerprinting and photographing by the Immigration and Naturalization Service) at the time they apply for admission to the United States. Under the most recent public Notice published in 1998, a special registration requirement applies to certain nonimmigrant aliens from Iran, Iraq, Libya, and Sudan. The requirements of special registration have recently been expanded and those new requirements will become effective on September 11, 2002. This Notice applies the expanded requirements to nonimmigrant aliens from the existing list of designated countries and expands the list of designated countries whose nationals or citizens will be required to comply with these special procedures to include nonimmigrant aliens from Syria.

DATES: This Notice is effective September 11, 2002.

FOR FURTHER INFORMATION CONTACT: Dan Brown, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514-2895.

SUPPLEMENTARY INFORMATION: Section 262(a) of the Immigration and Nationality Act ("INA") (8 U.S.C. 1302(a)) provides that all aliens who are age 14 or older and who have not previously been registered and fingerprinted at a consular office abroad, pursuant to section 221(b) of the INA (8 U.S.C. 1201(b)) or sections 30 or 31 of the Alien Registration Act, 1940, have a duty to apply for registration and to be fingerprinted if they remain in the United States for 30 days or longer. As authorized by section 262(c) of the INA (8 U.S.C. 1302(c)), however, the regulations at 8 CFR 264.1(e) contain general provisions waiving the requirement of fingerprinting for many nonimmigrant aliens. Accordingly, most nonimmigrant aliens are admitted to the

United States without being either fingerprinted or photographed.

In addition to those general registration requirements, section 263(a) of the INA (8 U.S.C. 1303(a)) authorizes the Attorney General to prescribe special registration for, among other classes, "aliens of any other class not lawfully admitted to the United States for permanent residence." Pursuant to this section, as well as the Attorney General's authority under sections 214 and 262 of the INA (8 U.S.C. 1184, 1302), the Attorney General has promulgated regulations, to be effective September 11, 2002, and to be codified at 8 CFR 264.1(f)(2)(i) and (ii), that authorize the Attorney General, by notice published in the **Federal Register**, to direct that certain nonimmigrant aliens from designated foreign countries be subject to special registration requirements. See 67 FR 52584, 52592 (Aug. 12, 2002). This Notice will be effective under those new regulations, which require not only fingerprinting and photographing upon arrival, but also in-person registration after 30 days, annual reregistration, and final registration when leaving the country.

The most recent Notice published by the Attorney General pursuant to the authority of existing 8 CFR 264.1(f) provides for the Immigration and Naturalization Service, at the port-of-entry, to register, fingerprint, and photograph arriving aliens from Iran, Iraq, Libya, and Sudan who are applying for admission to the United States in nonimmigrant status. See 63 FR 39109 (July 21, 1998).

This Notice supplants the July 21, 1998, Notice and designates Iran, Iraq, Libya, Sudan, and Syria as the countries whose nationals or citizens will be subject to the expanded special registration requirements in 8 CFR 264.1(f), as amended. The Attorney General has consulted the Secretary of State in designating these countries. In addition, all the countries covered by this Notice have been designated by the Department of State as state sponsors of terrorism. Certain nonimmigrant alien who are nationals or citizens of one of the countries designated in this Notice will be subject to the special registration requirements of 8 CFR 264.1(f), as amended. As set forth in 8 CFR 264.1(f)(1), as amended, the special registration requirements of 8 CFR 264.1(f), as amended, do not apply to nonimmigrant aliens applying for admission to the United States under sections 101(a)(15)(A) or 101(a)(15)(G) of the INA (8 U.S.C. 1101(a)(15)(A) or (G)). In accordance with 8 CFR 264.1(f)(2)(ii), the special registration

requirements also will apply to any nonimmigrant aliens who a consular officer or an inspecting officer has reason to believe are nationals or citizens of one of the five designated countries. This authority is necessary because a review of travel documentation occasionally raises questions regarding the actual nationality or citizenship of a particular nonimmigrant alien. For example, an alien may be a dual national or citizen of one of the designated countries as well as another country for which he or she presents documents.

The July 21, 1998, Notice also provided that the Attorney General, after consultation with the Secretary of State, could exempt certain nonimmigrant aliens from the registering, fingerprinting, and photographing requirements when such action was deemed to be in the interest of foreign policy or national security. The process for granting relief from the requirements of 8 CFR 264.1(f) to nonimmigrant aliens subject to special registration requirements is addressed in 8 CFR 264.1(f)(7), as amended, and is therefore not included in this Notice.

Notice of Designated Countries Whose Nationals and Citizens Will Generally Be Subject to Special Registration Requirements Upon Arrival as Nonimmigrant Aliens

Pursuant to 8 CFR 264.1(f), and 8 CFR 264.1(f)(2)(i) and (ii) as amended at 67 FR 52584, 52592, and after consultation with the Secretary of State, I hereby order:

All nonimmigrant aliens who are nationals or citizens of Iran, Iraq, Libya, Sudan, or Syria, or who a consular officer or an inspecting officer has reason to believe are nationals or citizens of such countries, and who are applying for admission to the United States in a nonimmigrant category other than under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A) or (G)), shall be subject to the registration requirements in 8 CFR 264.1(f)(3), (5), (6), (8), and (9), as amended. All such nonimmigrant aliens subject to special registration shall be advised of the provisions of 8 CFR 264.1(f), and their obligations to comply with those provisions, when admission is granted.

Dated: September 3, 2002.

John Ashcroft,
Attorney General.

[FR Doc. 02-22791 Filed 9-4-02; 12:53 pm]

BILLING CODE 4410-10-P

DEPARTMENT OF LABOR

Office of the Secretary

**Submission for OMB Review;
Comment Request**

August 22, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693-4158 or e-mail Howze-Marlene@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316) within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Application of the Employee Polygraph Protection Act.

OMB Number: 1215-0170.

Affected Public: Business or other for-profit; Individuals or households; and Not-for-profit institutions.

Frequency: On occasion.

Number of Respondents: 328,000.

Number of Annual Responses: 328,000.

Estimated Time Per Response: Varies from 1 minute to prepare written

polygraph notices to 30 minutes for on-going investigations.

Total Burden Hours: 82,406.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: The Employee Polygraph Protection Act of 1998 (EPPA) was signed into law June 27, 1988, and became effective December 27, 1988. EPPA prohibits most private employers (Federal, State and local government employers are exempted from the Act) from using any lie detector tests either for pre-employment screening or during the course of employment. The law contains several limited exemptions which authorize polygraph tests under certain conditions, including: (1) The testing of employees who are reasonably suspected of involvement in a workplace incident that results in economic lost or injury to the employer's business; (2) the testing by the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (3) the testing of some prospective employees of private armored car, security alarm, and security guard firms; and (4) the testing of some current and prospective employees in firms authorized to manufacture, distribute, or dispense controlled substances. Employers who violate any of the Act's provisions may be assessed civil money penalties up to \$10,000. The information collections contained in these regulations are necessary to insure that individuals subjected to polygraph testing are afforded the rights and protections contained in the EPPA. Failure to collect the information would make it extremely difficult for the Wage and Hour Division of the Department of Labor to enforce the provisions of the Act.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-22692 Filed 9-5-02; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 26, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693-4129 or e-mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Blasting Operations.

Type of Review: Extension.

OMB Number: 1218-0217.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government, and State, Local or Tribal Government.

Number of Respondents: 160.

Number of Annual Responses: 160.

Estimated Time Per Response: 8 hours.

Total Burden Hours: 1,280 hours.

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$1,704,000.

Description: 29 CFR 1926.900(k)(3)(i) requires a prominent display of adequate warning signs against the use of mobile transmitters. If the signs are infeasible, an alternative method needs to be developed to prevent the

premature detonation of electric blasting caps by mobile radio transmitters.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Vehicle-Mounted Elevating and Rotating Work Platforms (Aerial Lifts).

Type of Review: Extension.

OMB Number: 1218-0230.

Frequency: On occasion.

Type of Response: Recordkeeping and Third-party disclosure.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 900.

Number of Annual Responses: 900.

Estimated Time Per Response: 3 minutes.

Total Burden Hours: 45.

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$0.

Description: 29 CFR 1910.167(b)(2) requires that when aerial lifts are "field modified" for uses other than those intended by the manufacturer, the manufacturer or other equivalent entity, such as a nationally recognized testing laboratory, must certify in writing that the modification is in conformity with all applicable provisions of ANSI A92.2-1969 and the OSHA standard and that the modified aerial lift is at least as safe as the equipment was before modifications. Employers are to maintain the certification record and make it available to OSHA compliance officers. This record provides assurance to employers, employees, and compliance officers that the modified aerial lift was inspected and/or tested after the modification and that the aerial lift is safe for use, thereby, preventing failure while employees are being elevated.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Material Hoist, Personnel Hoist, and Elevators; Posting Requirements, Test and Inspections.

Type of Review: Extension.

OMB Number: 1218-0231.

Frequency: On occasion and Quarterly.

Type of Response: Record keeping and Third-party disclosure.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Number of Respondents: 26,547.

Number of Annual Responses: 130,095.

Estimated Time Per Response: 30 minute for a manufacturer to obtain and

post required information on factory-built hoist and elevators; 5 minutes for an employer to post required information on site-built hoist; and 15 minutes to conduct inspections

Total Burden Hours: 30,271.

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$0.

Description: The Material Hoists, Personnel Hoists, and Elevators Standard [29 CFR 1926.552(a)(2), (b)(1)(i), (c)(10), and (c)(15)] specifies that the following paperwork requirements, as well as how they use it.

Posting requirements: Paragraphs (a)(2) and (c)(10) specifies that the rated load capacities, operating speed and special hazard warning be posted securely on cars, platforms, personnel hoists. Paragraphs (b)(1)(i) specifies that operating rules that have been established be posted as the operator's station of the hoist, such rules shall include signal system, allowable line speed for various loads.

Personnel Hoists Record for Test and Inspection: Paragraph (c)(15) specifies that the employer perform tests and inspection on personnel hoist at no more than 3-month intervals and following any alterations on the equipment. In addition the employer must certify and maintain these records to show the compliance officer upon inspection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Crawler, Truck and Locomotive Cranes.

Type of Review: Extension.

OMB Review: 1218-0232.

Frequency: Monthly.

Type of Response: Recordkeeping.

Affected Public: Business or other for-profit and State, Local, or Tribal Government.

Number of Respondents: 21,238.

Number of Annual Responses: 254,856.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 127,428.

Total Annualized capital/startup costs: \$0.

Total annual costs (operating/maintaining systems or purchasing services): \$0.

Description: 29 CFR 1926.550(b)(2) requires employers to prepare and maintain an certification record which includes the date, listing of critical items inspected, signature of person performing the inspections, and a serial number or identifier of the crane inspected as specified in ANSI B30.5-1968, Safety Code for Crawler, Locomotive and Truck Cranes.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-22693 Filed 9-5-02; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 29, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202-693-4129 or e-mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202-395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Type of Review: Extension of a currently approved collection.

Title: Permit-Required Confined Spaces.

OMB Number: 1218-0203.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government; and Federal Government.

Frequency: On occasion.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 4,844,849.

Requirement	Annual responses	Average responses time (hours)	Total annual burden hours
Preparation of "Danger-Permit Required Confined Space" Sign	9,690	0.08	775
Preparation of "a written permit space entry" program	11,943	16.00	191,088
Documentation of determination and supporting data required for entries using alternative procedures	2,700,000	0.25	675,000
Written certification for alternative procedures	2,700,000	0.08	216,000
Written certification that all hazards have been eliminated (reclassification of a permit space)	200,000	0.08	16,000
Written entry permits	1,900,000	0.25	475,000
Certification of training—existing employees	1,600,000	0.05	80,000
Certification of training—new/retrained employees	160,000	0.08	12,800
Totals	9,281,633	.....	1,666,663

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: The Standard on Permit-Required Confined Spaces (29 CFR 1910.146) specifies a number of collection of information requirements. The collections of information are used by employers and employees whenever entry is made into permit-required confined spaces. The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of the information is to insure that employers systematically evaluate the dangers in permit spaces before entry is attempted and to insure that adequate measures are taken to make the spaces safe for entry. In addition, the information is needed to determine, during an OSHA inspection by a compliance safety and health officer, if employers are in compliance with the standard.

Section 1910.146(c)(2) requires the employer to post danger signs to inform exposed employees of the existence and location of and the danger posed by permit spaces.

Section 1910.146(c)(4) requires the employer to develop and implement a written permit space program if the employer decides that its employees will enter permit spaces. The written program is to be made available for inspection by employees and their authorized representatives. Section 1910.146(d) provides the employer with the requirements of a permit-required confined space program (permit space program) required under this paragraph.

Section 1910.146(c)(5)(i)(E) requires that the determinations and supporting data required by paragraphs (c)(5)(i)(A), (c)(5)(i)(B), and (c)(5)(i)(C) of this section are documented by the employer and are made available to each employee who enters a permit space or to that employee's authorized representative.

Under paragraph (c)(5)(ii)(H) of 1910.146, the employer is required to verify that the space is safe for entry and that the pre-entry measures required by paragraph (c)(5)(ii) of this section have been taken, through a written

certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is to be made before entry and is required to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(7)(iii) requires the employer to document the basis for determining that all hazards in a permit space have been eliminated, through a certification that contains the date, the location of the space, and the signature of the person making the determination. The certification is to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(e) requires the employer to document the completion of measures required by paragraph (d)(3) by preparing an entry permit before employee entry is authorized. Paragraph (e)(3) requires that the employer make the completed permit available at the time of entry to all authorized entrants by posting the permit at the entry portal or by any other equally effective means, so that the entrants can confirm that the pre-entry preparations have been completed. Paragraph (e)(6) requires the employer to retain each canceled entry permit for at least one year.

Section 1910.146(g)(4) requires that the employer certify that the training required by paragraphs (g)(1) through (g)(3) has been accomplished by preparing a written certification record.

Ira L. Mills,

Department Clearance Officer.

[FR Doc. 02-22694 Filed 9-5-02; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 29, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork

Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on 202-693-4129 or e-mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202-395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Standard on the Control of Hazardous Energy Sources (Lockout/Tagout)—29 CFR 1910.147.

OMB Number: 1218-0150.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government; and Federal Government.

Frequency: On occasion; Initially; and Annually.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 2,351,014.

Requirement	Annual response	Average response time (hours)	Annual burden hours
Energy-Control Procedure—29 CFR 1910.147(c)(4)(i):			
New procedures for high-impact establishments	27,602	2 to 80	163,649
New procedures for low-impact establishments	42,438	2.00	84,877
Updating procedures for high-impact establishments	273,548	.5 to 20	481,008
Updating procedures for low-impact establishments	424,383	0.50	212,192

Requirement	Annual response	Average response time (hours)	Annual burden hours
Energy-Control Procedure Sub-total	767,971	.....	941,726
Periodic Inspection—29—CFR 1910.147(c)(6)(ii).			
Training and Communication—29 CFR 1910.147(c)(7):	818,532	0.33	270,116
New/retrained employees	1,775,600	0.08	142,048
Remaining employees	5,944,400	0.03	178,332
Training and Communication Sub-Total:	7,720,000	.....	320,380
Notification of Employee—29 CFR 1910.147(c)(9)	77,504,778	0.004	310,019
Outside Personnel (Contractors, etc.)—29 CFR 1910.147(f)(2)	7,750,478	0.08	620,038
Grand total	94,561,759	.....	2,462,279

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: The collections of information contained in 29 CFR 1910.147 are needed to reduce injuries and deaths in the workplace that occur when employees are engaged in maintenance, repair, and other service-related activities requiring the control of potentially hazardous energy.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-22695 Filed 9-5-02; 8:45 am]

BILLING CODE 4510-26-M

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contract Darrin King on 202-693-4129 or e-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Atten: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202-395-7316), within 30 days from the date of the this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, medicinal, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

title: Work Opportunity Tax Credit (WOTC) and Welfare-to-work (WtW) Tax Credit.

OMB: 1205-0371.

Affected Public: State, Local, or Tribal Government; Individuals or households; Business or other for-profit; and Federal government.

Type of Response: Reporting and Recordkeeping.

Frequency: On occasion; Quarterly; and Annually.

Number of Respondents: 700,052.

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 30, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget

Requirement	total respondents	Frequency	Annual responses	Average response time (Hours)	Annual burden hours
Form 9057	52	Quarterly	208	4.00	832
Form 9058	52	Quarterly	208	4.00	832
Form 9059	52	Quarterly	208	4.00	832
Employer/Job Seeker Complete Form 9061	700,000	On occasion	700,000	0.33	231,000
States Process Form 9061	52	On occasion	700,000	4.00	2,800,000
Form 9062	52	On occasion	40	4.00	160
Form 9063	52	On occasion	400,000	0.33	132,000
Form 9065	52	On occasion	208	4.00	832
Record Keeping	52	Annually	52	931.00	48,412
Planning Guidance	52	On time	52	8.00	416
Planning Guidance—Modification	52	On occasion	52	1.00	52
Total: .....	.....	.....	1,801,028	.....	3,215,368

Total Annualized Capital/Startup Costs: \$0.

Total Annual costs (operating/maintaining systems or purchasing services): \$0.

Description: the data collected on ETA Forms 9057-59, Addendum to ETA Form 9058, and ETA Forms 9061-63 and 9065 is authorized by the Revenue Act of 1978, Tax Equity and Fiscal

Responsibility Act of 1982, Omnibus budget Reconciliation Act of 1992, sections 51 and 51A of the Internal Revenue Code of 1986, as amended, Small Business Act of 1996, Tax Payer

relief Act of 1997, the Ticket to Work Incentive Improvement Act of 1999, and the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147).

Data collected on the WOTC and the WtW Tax Credits is collected by the State Workforce Agencies (SWAs) and provided to the U.S. Employment Service. The data will be used, primarily, to supplement IRS Form 8850. This data will help expedite the processing of employer requests for Certifications generated through IRS Form 8850 or issuance of Conditional Certifications (CCs) and employer requests for Certifications as a result of hiring individuals who have received SWAs' or participating agencies' generated CCS. The data will also help streamline SWAs' mandated verification activities, aid and expedite the preparation of the quarterly reports, and provide a significant source of information for the Secretary's Annual Report to Congress on the WOTC program. The data recorded through the use of these forms will also help in the preparation of an annual report to Congress. Also, the plans submitted by the states will tell the regional and national Offices how the states plan to administer the WOTC and the WtW tax credits and use the funds allocated to them. Finally, the data obtained through the use of the Technical Assistance and Review guide will help the Regional Coordinators determine if the states are administering the tax credit program in compliance with the reauthorizing legislation, the IRS Code of 1986, as amended, and the ETA Handbook No. 408.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-22696 Filed 9-05-02; 8:45 am]

BILLING CODE 4510-3330-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 30, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin

King on 202-693-4129 or e-mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202-395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- *Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- *Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- *Enhance the quality, utility, and clarity of the information to be collected; and

- *Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Labor Certification for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States; Administrative Measures to Improve Program Performance.

OMB Number: 1205-0404.

Affected Public: Business or other for-profit and farms.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 318.

Annual Response: 318.

Average Response Time: 15 minutes.

Total Annual Burden: 80 hours.

Total Annualized Capital/Startup Costs: \$0.

Total Annual Costs (operating/maintaining systems or purchasing services): \$0.

Description: 20 CFR 655.106(e) requires employers of nonimmigrant aliens in agriculture in the United States to notify their State Employment Agency if such an employee departs

prior to or remains after a scheduled departure date.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02-22697 Filed 9-05-02; 8:45 am]

BILLING CODE 4510-50-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wage for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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HI020001 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at <http://www.access.gpo.gov/davisbacon>. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive HelpDesk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing

Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 29th day of August 2002.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 02-22621 Filed 9-5-02; 8:45 am]

BILLING CODE 4510-27-M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, 8 October 2002, from 8:00 a.m. to 9:15 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, 8 October 2002, from 9:30 a.m. to 5:30 p.m., on Wednesday, 9 October 2002, from 8:15 a.m. to 5:15 p.m., and on Thursday, 10 October 2002, from 8:15 a.m. to 12:30 p.m.

PLACE: Town and Country Resort & Convention Center, 500 Hotel Circle, San Diego CA 92108; phone, 619-291-7131; fax: 619-291-3584.

STATUS: The executive session will be closed to the public. At it, matters relating to international negotiations in process, personnel, and the budget of the Commission will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. While subject to change, major issues that the Commission plans to consider at the meeting include activities involving the International Whaling Commission; issues related to the incidental take of dolphins in the eastern tropical Pacific tuna fishery; the status of the vaquita in the Gulf of California; the gray whale stocks in the eastern and western Pacific Ocean; sea otters in California, the

Pacific Northwest and Alaska waters; killer whale stocks; issues related to the Hawaiian Islands; and fisheries and other human interactions with pinnipeds.

FOR FURTHER INFORMATION CONTACT:

Robert H. Mattlin, Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD 20814, 301-504-0087.

Dated: August 30, 2002.

Robert H. Mattlin,
Executive Director.

[FR Doc. 02-22848 Filed 9-4-02; 8:45 am]

BILLING CODE 6820-31-M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95-541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 27, 2002. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT:

Nadene G. Kennedy at the above address or (703) 292-7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain

animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. *Applicant:* Scott Kelly, PO Box 2654, Montauk, NY 11954.

Permit Application No.: 2003-008.

Activity for Which Permit is

Requested: Take and Import into the U.S.A. The applicant is part of the U.S. Antarctic Program's Artists and Writers Program and will deploy to Palmer Station. He proposes to collect feathers, small bones and broken and empty eggshells and return them to the U.S. where the applicant will closely study them in order to paint carefully composed and highly detailed paintings of the found objects. Once the items are no longer needed they will be transferred to another Artist and Writer who is an educator and lecturer who works with children in schools around the country.

Location: Palmer Station, Anvers Island and surrounding unrestricted islands.

Dates: December 1, 2002 to April 1, 2003.

Applicant: Donal Manahan, Department of Biological Sciences, Scripps Institution of Oceanography, University of California, San Diego, LaJolla, CA 92093-0204.

Permit Application No.: 2003-009.

Activity for Which Permit is

Requested: Introduce Non-indigenous Species into Antarctica; and Import into the United States. The applicant proposes to bring: (a) *E. coli* bacterial cultures [transported with other kit reagents frozen on dry ice (-80°C)] and 150ml each of 3 algal species (*Dunaliella tertiolecta*, *Rhodomonas* sp., and *Isochrysis galbana*) to Antarctica for use in experiments in a controlled laboratory setting at McMurdo Station. The *E. coli* will be used to replicate DNA during gene cloning. After the experiments using *E. coli* cultures, all media and materials are sterilized by autoclaving. Standard P-2 containment guidelines are strictly followed for the subsequent disposal of all materials and supplies. The unicellular algae will be used to start a culture collection of algae needed as food for Antarctic larval forms used in experiments conducted by the biology class. After the experiments are concluded all algae and seawater containing algae will be autoclaved.

Location: Cray Science and Engineering Laboratory, McMurdo Station, Antarctica.

Dates: October 1, 2002 to February 15, 2004.

3. *Applicant:* Brenda Hall, 311 Bryand GSC, University of Maine, Orono, ME 04469.

Permit Application No.: 2003-010.

Activity for Which Permit is

Requested: Enter Antarctica Specially Protected Areas. The applicant proposes to enter several ASPA's to examine the glacial, geology and raised beaches of the South Shetland Islands in order to gain a better understanding of the climate and glacial history of the area. The project involves examining the stratigraphy of glacial and beach deposits, looking for striations, and collecting ancient organic material for radiocarbon dating. Soil samples will be taken by digging small ($<1\text{m}^2$) pits in the sediment to look at the internal structure and to collect samples for later grain-size analysis and radiocarbon dating. Excavations will be refilled and the surface will be returned to near natural conditions as possible. The applicant will also map the different landforms, and survey elevations of beaches. The applicant will abide by the Management Plans for each of the Antarctic Specially Protected areas visited.

Location:

ASPA #125—Fildes Peninsula, King George Island, South Shetland Islands

ASPA #126—Byers Peninsula, Livingston Island, South Shetland Islands

ASPA #132—Potter Peninsula, King George Island, South Shetland Islands

ASPA #144—Chile Bay (Discovery Bay), Greenwich Island, South Shetland Islands

ASPA #149—Cape Shirreff, Livingston Island, South Shetland Islands

ASPA #150—Ardley Island, Maxwell Bay, King George Island, South Shetland Islands

ASPA #151—Lions Rump, King George Island, South Shetland Islands

ASPA #152—Western Bransfield Strait, off Low Island, South Shetland Islands

Dates: November 1, 2002 to January 31, 2003.

4. *Applicant:* Michael Castellini, Director, Institute of Marine Science, University of Alaska, Fairbanks, Fairbanks, AK 99775.

Permit Application No.: 2003-011.

Activity for Which Permit is

Requested: Take. The applicant proposes to capture up to 8 Weddell seal females and 6 pups to be outfitted with diving recorders and blood sampling lines in order to collect blood samples. Recorded data and blood

samples will be used to quantify the dynamics of lipid uptake and utilization in naturally foraging mammalian carnivores. The applicant will attempt to: (a) Quantify the kinetics of lipid component appearance under natural foraging conditions; (b) determine clearance rates of lipid components after foraging has ceased; (c) obtain lipid turnover rates in both diving and non-diving scenarios; and, (d) obtain lipid appearance and disappearance data in nursing seal pups.

Location: McMurdo Station and McMurdo Sound vicinity.

Dates: October 5, 2002 to December 15, 2002.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 02-22652 Filed 9-5-02; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL WOMEN'S BUSINESS COUNCIL

Sunshine Act Notice

ACTION: Notice of meeting.

SUMMARY: In accordance with 15 U.S.C. 7106(b), the National Women's Business Council (NWBC) announces a forthcoming meeting. The meeting will cover action items worked on by the NWBC, will be used to gather information on future NWBC endeavors (including research projects), to analyze relevant issues and facts, and discuss administrative matters of the committee. Although the regulations implementing the Federal Advisory Committee Act do not require notification of meetings adjourned to discuss pre-deliberative or administrative work, the NWBC would like to open the meeting to the public and therefore notify the public of the time and place.

DATES: September 17, 2002.

ADDRESSES: U.S. Small Business Administration, 409 Third Street, SW., Eisenhower Conference Room A 2nd Floor, Washington, DC 10 a.m. to 1 p.m.

STATUS: Open to the public.

CONTACT: National Women's Business Council, 409 Third Street, Suite 210, Washington, DC 20024, (202) 205-6695—Gilda Presley.

Note: Please RSVP by September 16, 2002.

Gilda Presley,

Administrative Officer, National Women's Business Council.

[FR Doc. 02-22790 Filed 9-4-02; 11:17 am]

BILLING CODE 6820-AB-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72 issued to Florida Power Corporation (the licensee) for operation of the Crystal River, Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

The proposed amendment would revise the note to the Improved Technical Specification (ITS) 3.7.18 Completion Time to allow a 24-hour extension of completion time for entry into ITS 3.0.3. This change is requested as a contingency for two inoperable Control Complex chillers while Control Complex Cooling System chiller refurbishment is performed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously [analyzed].

The Control Complex Cooling System is not an initiator of any design basis accident. The basis for this request is that the risk of a design basis event [occurring] within the 24-hour period during which alternative cooling will be used is acceptably small, and is less than the risk posed by a forced shutdown of the unit. The Control Complex Cooling System safety function is to provide sufficient cooling to ensure operability of

safety-related equipment located in the control room and other portions of the Control Complex. Control Complex cooling, within the 24-hour period, is being accomplished by the compensatory measures in place which include providing alternate cooling by aligning the Appendix R Chilled Water System to supply cooling to the vital equipment areas in the Control Complex and operation of pre-staged portable air conditioning that provides cooling to the Control Room. Control Complex Habitability Envelope Integrity will be maintained throughout the duration of this operating condition, which will ensure that potential post-accident dose to operators, is maintained within analyzed limits. Therefore, granting this License Amendment Request for a 24-hour delay for entry into ITS 3.0.3, due to inoperability of a second chiller, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different type of accident from any accident previously [analyzed].

The proposed License Amendment Request for a 24-hour delay for entry into ITS 3.0.3, due to inoperability of a second chiller, will not result in changes to the design, physical configuration of the plant. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

During the 24-hour delay for entry into ITS 3.0.3, due to inoperability of a second chiller, measures will be implemented to ensure the availability of temporary and permanently installed non-safety backup systems capable of providing cooling to the control room and other vital equipment areas in the Control Complex. From the risk significance perspective, using installed non-safety backup systems to provide cooling to the control room and other vital equipment areas in the Control Complex is acceptable. Areas with essential equipment in the Control Complex will be monitored to ensure temperatures do not exceed acceptable limits. Therefore, granting a License Amendment Request for a 24-hour delay for entry into ITS 3.0.3, due to inoperability of a second chiller, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 7, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,¹

¹ The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: "In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the

proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555

Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov. A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to R. Alexander Glenn, Associate General Counsel (MAC-BT15A), Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733-4042, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 14, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 30th day of August, 2002.

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief."

For the Nuclear Regulatory Commission.
Brenda L. Mozafari,
*Senior Project Manager, Section 2, Project
 Directorate II, Division of Licensing Project
 Management, Office of Nuclear Reactor
 Regulation.*
 [FR Doc. 02-22701 Filed 9-5-02; 8:45 am]
BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a proposed revision of a guide in its Regulatory Guide Series. Regulatory Guides are developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is temporarily identified by its task number, DG-1119, which should be mentioned in all correspondence concerning this draft guide. Draft Regulatory Guide DG-1119, the Proposed Revision 1 of Regulatory Guide 1.180, "Guidelines for Evaluating Electromagnetic and Radio-Frequency Interference in Safety-Related Instrumentation and Control Systems," is being developed to provide up-to-date guidance to licensees and applicants on methods acceptable to the NRC staff for complying with the NRC's regulations on design, installation, and testing practices for addressing the effects of electromagnetic and radio-frequency interference and power surges on safety-related instrumentation and control systems.

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted by mail to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; or they may be hand-delivered to the Rules and Directives Branch, ADM, at 11555 Rockville Pike, Rockville, MD. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by November 8, 2002.

You may also provide comments via the NRC's interactive rulemaking Web

site through the NRC home page (<http://www.nrc.gov>). This site provides the ability to upload comments as files (any format) if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@NRC.GOV. For information about Draft Regulatory Guide DG-1119, contact Ms. C.E. Antonescu at (301) 415-6792, e-mail CEA1@NRC.GOV.

Although a time limit is given for comments on these draft guides, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415-4737 or (800) 397-4205; fax (301) 415-3548; e-mail PDR@NRC.GOV. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to DISTRIBUTION@NRC.GOV; or by fax to (301) 415-2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 22nd day of August, 2002.

For the Nuclear Regulatory Commission.
Michael E. Mayfield,
*Director, Division of Engineering Technology,
 Office of Nuclear Regulatory Research.*
 [FR Doc. 02-22702 Filed 9-5-02; 8:45 am]
BILLING CODE 7950-01-P

OVERSEAS PRIVATE INVESTMENT CORPORATION

September 5, 2002 Public Hearing

OPIC's Sunshine Act notice of its public hearing was published in the **Federal Register** (Volume 67, Number 163, Page 54504) on August 22, 2002. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing in conjunction with OPIC's September 12, 2002 Board of Directors meeting scheduled for 2 p.m. on September 5, 2002 has been cancelled.

CONTACT PERSON FOR INFORMATION:
 Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336-8438, via facsimile at (202) 218-0136, or via email at cdown@opic.gov.

Dated: May 16, 2002.

Connie M. Downs,
OPIC Corporate Secretary.
 [FR Doc. 02-22803 Filed 9-4-02; 12:42 pm]
BILLING CODE 3210-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46434; File No. SR-Amex-2002-65]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC To Amend the Account Type Codes Under Exchange Rule

August 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on July 30, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed Amendment No. 1 with the Commission on August 21, 2002.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the account type codes under Exchange Rule . The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

Comparison of Exchange Transactions Rule 719.

(a) through (d) No change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On August 21, 2002, the Exchange filed a Form 19b-4, which replaced the original filing in its entirety ("Amendment No. 1"). In Amendment No. 1, the Exchange added a description of the proposed amendment to account type code "G" to the purpose section calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on August 21, 2002, the date the Exchange filed Amendment No. 1.

* * * Commentary

.01 No change.

.02 Regardless of whether or not a registered clearing agency is being used for comparison and/or settlement, each clearing member organization shall submit the following trade data and audit trail information with respect to contracts for securities entered into on the Exchange to a registered clearing agency in such form and within such time periods as may be described by the registered clearing agency or the Exchange:

(1) Name or identifying symbol of the security,

(2) The clearing firm's number or alpha symbol as may be used from time to time, in regard to its side of the contract,

(3) The executing broker's badge number or alpha symbol as may be used from time to time, in regard to its side of the contract,

(4) Trade date,

(5) The time the trade was executed,

(6) Number of shares or quantity of security,

(7) Transaction price,

(8) The clearing firm's number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(9) The executing broker badge number or alpha symbol as may be used from time to time, in regard to the contra side of the contract,

(10) The terms of settlement,

(11) Specialist, registered trader, and market maker acronyms in regards to options transactions,

(12) Account type code "equities only. The current account type codes for equity transactions are as follows.

Members should use the most restrictive account type code available. Thus, for example, members only should use the "A" account type code for an agency transaction when no other account type code accurately describes the trade.

These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

G—Registered Equity Trader, Registered Equity Market Maker and Registered Option Trader market maker transactions in the equities and ETFs in which they are registered as a market maker regardless of the clearing member, and Registered Option Trader and option specialist transactions in an underlying Paired Security if the underlying Paired Security is an equity other than an ETF (e.g., SPY, DIA, QQQ, HOLDRS, Sector SPDRs).

[V]P—Amex Option Specialist or Market Maker transaction in the underlying of an Amex "paired security" if the underlying of the Paired Security is an ETF (e.g., SPY, DIA, QQQ, HOLDRS, Sector SPDRs) (regardless of the clearing member)

O—Proprietary transactions cleared for a competing market maker that is affiliated with the clearing member

T—Transactions cleared for the account of an unaffiliated member's competing market maker

R—Transactions cleared for the account of a non-member competing market maker

I—Transactions cleared for the account of an individual investor

E—Short exempt transactions cleared for the proprietary account of a clearing member organization or affiliated member/member organization

F—Short exempt transactions cleared for the proprietary account of an unaffiliated member/member organization

H—Short exempt transactions cleared for an individual customer account

B—Short exempt transactions cleared for all agency customer accounts

L—Short exempt transaction cleared for a competing market maker that is affiliated with the clearing member

X—Short exempt transaction cleared for the account of an unaffiliated member competing market maker

Z—Short exempt transaction cleared for the account of a non-member competing market maker

W—Proprietary transactions not specified above and cleared for the account of an unaffiliated member/member organization

A—Transactions cleared for all agency customer accounts

P—Transactions not specified above and cleared for the proprietary account of a clearing member organization or affiliated member/member organization

V—Proprietary transactions cleared for the account of a non-member broker dealer that is not a competing market maker

New York Stock Exchange program trade audit trail account type codes as used from time to time also are acceptable.

(13) Account type code—options only. The current account type codes for option transactions are as follows. Members should use the most restrictive account type code available. These codes may be changed from time to time as the Exchange may determine:

S—Specialist principal transaction in a specialty security (regardless of the account or clearing member)

C—Transactions cleared for the account of an individual investor

F—Transactions cleared for the account of a broker-dealer that is not a registered market maker in the security

P—Registered trader market maker transaction regardless of the clearing member

N—Transactions cleared for the account of a non-member market maker

(14) Such other information as the Exchange may from time to time require. Clearing members may not "summarize" multiple trades in the same security, executed at the same price with the same contra clearing firm as this results in degradation of the audit trail.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange's rules require clearing members to submit to comparison different types of information for each transaction that they clear. These requirements are set forth in Exchange Rule 719. Among the different data that clearing firms must submit for each trade is an account type code. These codes identify the type of account for which the trade was effected (e.g., a customer, market maker or specialist). The Exchange uses these codes for purposes of market oversight and transaction fee billing.

The Exchange is proposing to amend the account type codes under Exchange Rule 719. Specifically, the Exchange proposes that the letter "P" would be used to identify an Amex option specialist or option market maker trading a "paired security"⁴ other than

⁴ A "paired security" is an Amex traded equity security that is also subject to options trading on the Amex. See Amex Rule 900(b)(38).

an Exchange Traded Funds ("ETFs"). In addition, the letter "V" would be used to identify proprietary transactions for non-member broker dealers that are not acting as a competing market maker. Finally, the letter "G" would be used to identify Registered Equity Trader, Registered Equity Market Maker and Registered Option Trader market maker transactions in the equities and ETFs in which they are registered as a market maker regardless of the clearing member, and Registered Option Trader and option specialist transactions in an underlying Paired Security if the underlying Paired Security is an equity other than an ETF. The Exchange proposes these changes to facilitate the billing of transaction fees. No other change would be made to Rule 719.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act⁵ in general and furthers the objectives of section 6(b)(5),⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁷ and paragraph (f)(1) and (3) of Rule 19b-4⁸ thereunder because it constitutes a states policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule and is concerned solely with the

administration of the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.⁹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2002-65 and should be submitted by September 27, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-22656 Filed 9-5-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46435; File No. SR-CBOE-2002-47]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. to Facilitate Trading of Fixed-Income Index Portfolio Shares and Options Overlying Those Shares

August 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 23, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Exchange filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act³ and rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to facilitate trading of fixed-income Index Portfolio Shares and options overlying those shares. The text of the proposed rule change is below. New language is in *italics*; deleted language is in brackets.

* * * * *

Rule 1.1 Definitions

(a)-(yy) No change.
 . . . Interpretations and Policies:
 .01-.02 No change.
 .03 The term "Index Portfolio Shares" or IPSs means securities that (a) are issued by an open-end management investment company based on a portfolio of stocks *or fixed income securities* designed to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index *or fixed income securities index*; (b) are issued by such an open-end management investment company in a specified aggregate minimum number in return for a

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(1) and (3).

⁹ For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on August 21, 2002, the date the Exchange filed Amendment No. 1.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

deposit of specified number of shares of stock and/or a cash amount, *or a specified portfolio of fixed income securities and/or a cash amount*, with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such open-end management investment company which will pay to the redeeming holder stock and/or cash, *or a specified portfolio of fixed income securities and/or cash* with a value equal to the next determined net asset value.

.04 No change.

* * * * *

Rule 5.3 Criteria for Underlying Securities

(a)–(b) No change.

. . . Interpretations and Policies:

.01–.05 No change.

.06 Securities deemed appropriate for options trading shall include shares or other securities (“Units”) that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as “national market” securities, and that hold portfolios of securities comprising or otherwise based on or representing investments in indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities); provided that all of the following conditions are met:

(A) any non-U.S. component [stocks] *securities* of the index or portfolio on which the Units are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(B) [stocks] *securities* for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index;

(C) [stocks] *securities* for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index; and

(D) either (x) the Units meet the criteria and guidelines set forth in Rule 5.3 and Interpretation and Policy .01 thereunder, or (y) the Units are available for creation or redemption each business day from or through the investment company in cash or in kind

at a price related to net asset value, and the investment company is obligated to issue Units in a specified aggregate number even if some or all of the securities required to be deposited have not been received by the investment company, subject to the condition that the person obligated to deposit the securities has undertaken to deliver the securities as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the investment company, all as described in the investment company prospectus.

.07–.09 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose, of and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the definition of Index Portfolio Shares (“IPSs”) in CBOE's rules to reflect that IPSs may be based on fixed-income securities indexes. This proposed rule change corresponds to an American Stock Exchange (“Amex”) rule change filing recently approved by the Commission.⁵ Thus, CBOE is proposing to modify Rule 1.1, Interpretation and Policy .03 to mirror the Amex changes to Amex Rule 1000A.

CBOE also seeks to clarify that certain listing requirements for options overlying IPSs, or exchange-traded funds (“ETFs”) generally, should apply to options overlying ETFs that are based on fixed income securities indexes. Currently, CBOE Rule 5.3, Interpretation and Policy .06, governing the listing of ETF options, provides that, among other things, the following conditions must be met to list options on an ETF:

(A) any non-U.S. component stocks of the index or portfolio on which the

Units are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio;

(B) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and

(C) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index.

While a fixed-income ETF technically meets (A)–(C) above, CBOE believes those provisions were meant to apply to any foreign *securities*, not just foreign *stocks*. Thus, CBOE proposes to make those criteria applicable to ETFs based on any securities—which would include fixed income ETFs.

2. Statutory Basis

The Exchange believes that clarifying its rules governing IPSs and options on IPS and ETFs will benefit investors. Accordingly, the proposed rule change is consistent with section 6(b) of the Act,⁶ in general, and furthers the objectives of section 6(b)(5) of the Act,⁷ in particular, in that it would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has designated that the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

⁵ See Securities Exchange Act Release No. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (File No. SR-Amex-2001-35).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has provided the Commission with written notice of its intent to file the proposed rule change, at least five business days prior to the filing date. Therefore, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁸ and rule 19b-4(f)(6) thereunder.⁹

A proposed rule change filed under rule 19b-4(f)(6)¹⁰ does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The CBOE has requested that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in rule 10b-4(f)(6)(iii).¹¹ The Commission believes that waiving the 30 day operative delay is consistent with the protection of investors and the public interest and, therefore, has determined to allow the proposed rule change to become effective and operative as of the date of filing with the Commission.¹²

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-2002-47 and should be submitted by September 27, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-22655 Filed 9-5-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46436; File No. SR-CHX-2002-20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by The Chicago Stock Exchange, Incorporated Relating to Automatic Execution of Orders and Execution Prices

August 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice hereby is given that on July 11, 2002, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On August 12, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.³ On August 27, 2002, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

¹³ 17 CFR 200.30(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 9, 2002 ("Amendment No. 1").

⁴ See letter from Kathleen M. Boege, Assistant General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 23, 2002 ("Amendment No. 2").

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article XX, Rule 37 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders. Below is the text of the proposed rule change. Proposed new language is italicized; deletions are bracketed.

Article XX

Guaranteed Execution System and Midwest Automated Execution System

RULE 37(a). Guaranteed Executions.

* * * * *

1. Eligible Orders. Specialists must accept and guarantee execution of all agency *market and marketable limit* orders [in Dual Trading System issues] from 100 *through* [up to and including] 5099 shares in accordance with this rule. [Specialists must accept and guarantee execution of all agency market orders or marketable limit orders in NASDAQ/NM Securities from 100 up to and including 5099 shares in accordance with this rule. Specialists must accept all agency limit orders in NASDAQ/NM Securities from 100 up to and including 10,000 shares for placement in the limit order book.]

2. *Market and Marketable Limit Orders. Any market or marketable limit order executed automatically shall be executed at the BBO price or better. With respect to any market or marketable limit order not executed automatically, a specialist shall be obligated to either (a) manually execute such order at a price and size equal to or better than the NBBO price and size at the time the order was received; or (b) act as agent for such order in seeking to obtain the best available price for such order on a marketplace other than the Exchange, using order routing systems where appropriate.* [Subject to the requirements of the short sale rule and the limitations of Rule 43(d) of this Article, all agency market orders must be filled on the basis of the size and price associated with the best bid among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") quote ("ITS Best Bid") on a sell order or the size and price associated with the best offer among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the ITS/CAES quote ("ITS Best Offer") on a buy order (the "ITS Best Bid" and "ITS Best Offer" are collectively referred to as the "ITS

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ *Id.*

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

BBO"); provided, however, for NASDAQ/NM Securities, all agency market orders must be filled on the basis of the price and size associated with the best bid disseminated pursuant to SEC Rule 11Ac1-1 on a sell order or price and size associated with the best offer disseminated pursuant to SEC Rule 11Ac1-1 on a buy order (collectively, the "NBBO"); or, if the specialist is quoting at the NBBO, based on the size associated with the specialist's bid or offer and the auto-execution threshold designated by the specialist.]

3-7. No change to text.

(b) Automated Executions. The Exchange's Midwest Automated Execution System (the MAX System) may be used to provide an automated delivery and execution facility for orders that are eligible for automatic execution on the Exchange. [under the Exchange's BEST Rule (Article XX, Rule 37(a)) and certain other orders. In the event that an order that is subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the BEST Rule and the following. In the event that an order that is not subject to the BEST Rule is sent through MAX, it shall be executed in accordance with the parameters of the following:]

(1) Size. The MAX System has two size parameters which must be designated by the specialist on a stock-by-stock basis. These parameters are the auto-execution threshold and the auto-acceptance threshold. For both Dual Trading System issues and NASDAQ/NM Securities, the auto-execution threshold must be set at 300 shares or greater and the auto-acceptance threshold must be set at 1000 shares or greater. In no event may the auto-acceptance threshold be less than the auto-execution threshold. If the order sending firm sends an agency market order in a Dual Trading System issue through MAX, such order will be executed in accordance with paragraph (b)(6) of this Rule. If the order sending firm sends an agency market order in a Nasdaq/NM Security through MAX, such order shall be executed in accordance with paragraph (b)(7) of this Rule. *Notwithstanding the subsequent provisions of Rule 37(b) regarding automatic execution of orders, a specialist may elect, on an issue-by-issue basis, to limit the specialist's automatic execution exposure during a designated time period to a number of shares aggregated from multiple orders (the "Aggregate Share Threshold"). If a specialist makes this election, the MAX system will automatically execute orders in such issue until the Aggregate Share Threshold is reached and subsequent*

orders will be directed to the specialist's book for manual execution during the remainder of the designated time period.

* * * * *

Interpretations and Policies:

.01—.09 No change in text.

.10 *For purposes of this Rule 37, "BBO price" shall mean the best bid or offer disseminated by a national market participant and reasonably accessible by the Exchange. "NBBO price" shall mean (a) for Dual Trading System issues, the best bid among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the Intermarket Trading System/Computer Assisted Execution System ("ITS/CAES") quote ("ITS Best Bid") on a sell order or the best offer among the American, Boston, Cincinnati, Chicago, New York, Pacific, Philadelphia or the ITS/CAES quote ("ITS Best Offer") on a buy order (the "ITS Best Bid" and "ITS Best Offer" are collectively referred to as the "ITS BBO"); and (b) for NASDAQ/NM Securities, the price associated with the best bid disseminated pursuant to SEC Rule 11Ac1-1 on a sell order or price associated with the best offer disseminated pursuant to SEC Rule 11Ac1-1 on a buy order.*

* * * * *

RULE 43.

* * * * *

[(d) Manual Executions.

With respect to MAX System agency market or marketable limit orders in NASDAQ/NM Securities which have a size equal to or less than the auto-execution threshold but which are not auto-executed under the provisions of Rule 37(b)(7) of this article, a specialist shall be obligated to either (i) manually executed such orders at the NBBO in existence when the order is received or better, or (ii) act as agent for such orders in seeking to obtain the best available price for such orders on a marketplace other than the Exchange. A specialist acting as agent pursuant to subparagraph (ii) above shall use order routing systems where appropriate.]

* * * * *

ARTICLE XXX

Specialists

* * * * *

Precedence to Orders in the Book

RULE 2.

* * * * *

Interpretations and Policies:

.05 Interaction between professional limit orders and agency limit orders that are not professional orders ("Agency Orders").

In the event that a professional order "has the post," i.e., is the highest priority order in the specialist's book at a given price, the professional order is not required to yield precedence to an Agency Order at the same price that has not established time priority over the professional order. [Notwithstanding anything in the previous sentence to the contrary, in the event that such Agency Order is due a fill under the Exchange's Best Rule, that Agency Order shall be filled even though the professional order which had a higher priority on the book is not filled.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Article XX, Rule 37 and Rule 43 of the CHX Rules, which governs, among other things, automatic execution of market and marketable limit orders and execution prices due orders. The proposed amendments to Rules 37 and 43 are intended to modify a CHX specialist's order execution obligations to address post-decimalization market conditions, specifically the significant reduction in liquidity at each price point, including the national best bid and offer ("NBBO"). The CHX requests the Commission's approval of the proposed rule change on a pilot basis, for six months from the date of the Commission's approval order.

Background

New York Stock Exchange, American Stock Exchange and Nasdaq issues are traded on the CHX; each issue traded is assigned to a single specialist. The vast

majority of orders received by a CHX specialist are routed from order-sending firms via the Exchange's MAX® system, which provides for the electronic routing and automatic execution of orders.

To provide order-sending firms with an incentive to route orders to our market, the CHX, like most regional exchanges, has what is referred to at the CHX as the "BEST Rule." The BEST Rule provides that if a specialist accepts an order (or in actuality the MAX system accepts the order for the specialist), the specialist generally must execute the order at the NBBO price up to the NBBO displayed quantity, *i.e.*, the best price and liquidity available in the national market system.

In addition to the BEST Rule that governs execution prices, the CHX rules also provide for automatic execution of orders, *i.e.*, without manual intervention by the CHX specialist, if certain conditions are met.⁵ In order to manage his position and prudently limit his auto-execution exposure, each CHX specialist designates an "auto-execution threshold" for each issue.⁶ The auto-execution threshold is a number of shares, greater than 99 shares that the specialist is willing to execute automatically.

Although a specialist can set his auto execution threshold in a variety of ways, a fairly typical setting would be to automatically execute all orders, in a particular issue, of 599 shares or less regardless of the quantity offered at the BBO and automatically execute orders up to 1099 shares provided that order size does not exceed the BBO displayed quantity. If an order exceeds the specialist's auto-execution threshold, the order is automatically directed into the specialist's book for manual execution, unless the order-sending firm has elected to receive partial automatic executions, in which case a portion of the order will automatically execute, up to the size of the auto-execution threshold, and the balance of the order will be placed in the specialist's book for manual execution.⁷ Significantly, under the current version of the CHX rules, manual execution generally does not excuse a specialist from his or her BEST Rule obligations; an order executed manually must be executed at the NBBO price up to the NBBO displayed quantity unless the specialist

can demonstrate the existence of unusual trading conditions.⁸

Issue

Under the current version of the CHX rules, a CHX specialist has unlimited (and the CHX believes unwarranted) auto-execution exposure, because a rapid succession of orders entered into the MAX system at or below the specialist's auto-execution threshold are due an automatic fill at the prevailing NBBO price. For example, if a specialist set the auto-execution threshold as described in the preceding paragraph, and the NBBO was 600 shares offered at \$30.00, the specialist would be obligated to automatically execute 10 500-share market orders to buy at \$30.00 if those orders were rapidly sent by one or more customers while the NBBO remained unchanged. The specialist, who intended to offer price and liquidity equivalent to the best market, instead provided 4400 additional shares of liquidity.

The problem of providing more than the intended amount of liquidity through automatic executions has grown more acute since the conversion to decimal trading. The availability of liquidity at a price point has become a more significant factor in order routing decisions. While the quantity offered at the NBBO has generally declined since the conversion to decimals, this consequence can be easily avoided by rapidly submitting a succession of small orders eligible for automatic execution at the NBBO price to a CHX specialist. The specialist, if he chooses to offset the position in another market, however, will encounter the limited liquidity that drove the order sender to take advantage of the specialist's auto execution of orders and the liquidity it provides.

Proposal

After careful consideration of the issue by the leaders of the CHX Listed Specialist Product Subcommittee, OTC Specialist Product Subcommittee, Rules Subcommittee and Committee on Floor Procedure, the CHX proposes amendment of Article XX, Rule 37 to address the foregoing issue. Specifically, the CHX believes that in today's decimal trading environment, where it is very difficult to find liquidity at the NBBO

price point and the NBBO price is constantly "flickering," it is appropriate for a specialist to limit his or her aggregate auto-execution and BEST Rule liability to the then-current and accessible NBBO price and size. In other words, the specialist's auto-execution threshold would no longer constitute a guarantee of automatic execution of an unlimited number of orders at the NBBO price. CHX proposes below two principal changes to CHX Article XX, Rule 37, which CHX seeks to incorporate into its rules and which a specialist could elect to enable.

1. Changes to BEST Rule and Calculation of BBO

Under the proposed revision to CHX Article XX, Rule 37(a), a CHX specialist would no longer be obligated to provide the NBBO price for every order accepted by the specialist. Instead, the proposed rule change incorporates revised standards for handling orders; these standards are taken directly from the Commission's order-handling rules.⁹ Under these revised standards, automatically executed orders must be executed at the "BBO price" or better.¹⁰ "BBO price" is defined in proposed Interpretation and Policy .10 to CHX Rule 37 as the best bid or offer disseminated by a national market participant reasonably accessible by the CHX. Specialists will continue to be obligated to manually execute all orders not eligible for automatic execution at a price equal to or better than the NBBO price at the time the order was received, or act as agent for the order in seeking the best-available price in the marketplace.¹¹

Significantly, the revised order-handling standards will continue to be subject to surveillance by the CHX Department of Market Regulation and

⁹ See Order Execution Obligations Release, Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996), which notes, among other things, that " * * * the duty of best execution requires a broker-dealer to seek the most favorable terms reasonably available under the circumstances for a customer's transaction." Order Execution Obligations Release at 48322.

¹⁰ The Exchange represents that this proposal, like the proposed change to the BEST Rule guarantee, is taken from the Commission's Order Handling Release. See Order Execution Obligations Release at 48323 (noting that quotations must be taken into account by broker-dealers if reasonably available).

¹¹ See Amendment No. 2, *supra* note 4. Importantly, the Commission has already approved this execution standard for the Exchange's rules that apply to the execution of orders in Nasdaq/NM securities. See CHX Article XX, Rule 43(d); Securities Exchange Act Release No. 37369 (June 25, 1996), 61 FR 34462 (July 2, 1996). This proposal, then, simply would extend this standard to the handling of orders in listed securities.

⁵ See CHX Article XX, Rule 37(b)(6)(automatic execution of orders in listed securities); CHX Article XX, Rule 37(b)(7)(automatic execution of orders in OTC securities).

⁶ See CHX Article XX, Rule 37(b)(1).

⁷ See CHX Article XX, Rule 37(b)(6) and (7).

⁸ The other exception to this rule occurs in the trading of Nasdaq/NM securities. CHX Article XX, Rule 43(d) provides that, when an order that is of a size less than or equal to the specialist's auto-execution threshold is not automatically executed, the specialist must either "(1) manually execute such orders at the NBBO in existence when the order is received or better, or (2) act as agent for such orders in seeking to obtain the best available price for such orders on a marketplace other than the Exchange."

members will remain subject to discipline for violations of CHX Article XX, Rule 37(a). But the Exchange believes that the rule revision, particularly with a more realistic definition of BBO price, will permit specialists to meet their order handling obligations without being subject to BEST Rule guarantees that, according to the Exchange, are sometimes impossible to satisfy in today's post-decimalization environment.

2. Incorporation of Aggregate Share Threshold Into Automatic Execution Rules

This second proposal would amend CHX Article XX, Rule 37(b) to limit a specialist's unintended automatic execution liability by incorporating an Aggregate Share Threshold into the specialist's designated auto-execution parameters. The Aggregate Share Threshold could be enabled by a specialist on an issue-by-issue basis. This functionality would be entirely optional, however, and a specialist could still elect to provide additional liquidity guarantees. Under this voluntary systems enhancement, the specialist would agree to auto-execution (at the BBO price) of an aggregate number of shares (the "Aggregate Share Threshold"). Once an aggregate number of shares equal to the Aggregate Share Threshold was automatically executed, whether as a result of one order or numerous orders, subsequent orders would be directed into the specialist's book for manual execution. Under the proposed rule change, these subsequent orders would not necessarily be due a fill at the BBO price, but would be subject to the specialist's best execution obligation under revised Rule 37(a). The specialist could act as agent to obtain the best available price on a marketplace other than the Exchange or could voluntarily elect to fill the order at the BBO price. The Aggregate Share Threshold would reset after a prescribed amount of time designated by a specialist¹² and could never be set at a level less than the shares included in the specialist's own bid or offer.

The following examples illustrate how the automatic executions would work. They assume that the specialist has set his or her Aggregate Share Threshold at a level equal to the size at the prevailing NBBO.

Example 1: NBBO is 2000 shares offered at 30.

¹² A specialist choosing to enable the Aggregate Share Threshold functionality would be required to provide CHX staff with the designated time increment for each issue. The time increment would commence (and restart) upon any change in the NBBO.

Specialist has designated Aggregate Share Threshold of 2000 shares.

MAX accepts 5 500-share buy market orders.

Outcome: 4 orders executed automatically upon receipt at 30. 1 order is directed into the specialist's book for manual execution.

Example 2: NBBO is 2000 shares offered at 30 at 12:00:00.

Specialist has designated Aggregate Share Threshold of 2000 shares.

The Aggregate Share Threshold is calibrated to reset after 15 seconds. MAX accepts 5 500 share buy market orders between 12:00 and 12:00:15. NBBO remains at 2000 shares offered at 30 at 12:00:15.

MAX accepts 1 500-share buy market order at 12:00:17.

NBBO remains at 2000 shares offered at 30 at 12:00:17.

Outcome: 4 orders received between 12:00:00 and 12:00:15 execute automatically upon receipt. 5th order received between 12:00:00 and 12:00:15 is directed into the specialist's book for manual execution.

The 500-share buy market order received at 12:00:17 executes automatically upon receipt.

Example 3: NBBO is 2000 shares offered at 30 at 12:00:00.

Specialist has designated Aggregate Share Threshold of 2000 shares.

The Aggregate Share Threshold is calibrated to reset upon a change in the NBBO.

MAX accepts 5 500-share buy market orders between 12:00:00 and 12:00:10.

NBBO remains at 2000 shares offered at 30 at 12:00:10.

NBBO changes to 1000 shares offered at 30 at 12:00:11.

MAX accepts 2 500-share market buy orders at 12:00:12.

NBBO remains 1000 shares offered at 30 at 12:00:12.

Outcome: 4 orders received between 12:00:00 and 12:00:10 execute automatically upon receipt. 5th order received between 12:00:00 and 12:00:10 is directed into the specialist's book for manual execution.

2 500-share market buy orders received at 12:00:12 execute automatically upon receipt.

The CHX believes that these two proposed rule changes would be sufficient to address the unintended adverse consequences of current CHX rules relating to auto-execution liquidity and price guarantees. It is important to note that neither of the proposed changes would operate to discriminate

against order-sending firms in any way; operation of these changes to the MAX system would be enabled on an issue-by-issue basis and would apply equally to all order-sending firms. Similarly, the Exchange believes that the intended outcome of the MAX changes would not have a disparate impact on any order-sending firm or class of firm.

The CHX would further note that in today's market environment, where specialists are required to make public their quality-of-execution statistics and broker-dealers are bound as fiduciaries to make order-routing decisions in accordance with best execution practices, there exist sufficient market-based incentives for specialists to continue to provide execution prices and liquidity akin to the best available in the national market. These incentives render a rule-based requirement largely obsolete, and amply support the rule changes proposed herein.

2. Statutory Basis

The proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.¹³ In particular, the proposed rule is consistent with section 6(b)(5)¹⁴ in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

(ii) as to which he self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-2002-20 and should be submitted by September 27, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-22654 Filed 9-5-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46430; File No. SR-PCX-2002-52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Pacific Exchange, Inc. Relating to Changes in Its Marketing Fee Program

August 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 5,

2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. PCX filed Amendment No. 1 to the proposed rule change on August 23, 2002.³ PCX filed Amendment No. 2 to the proposed rule change on August 28, 2002.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX proposes to limit the number of equity option issues to which marketing fees may apply to only those that are ranked in the 250 most actively traded equity options. The Exchange is also proposing to require that PCX Lead Market Makers who make payments to order flow providers as part of the Exchange's marketing fee program make, keep current, and preserve records relating to marketing fee arrangements and make those records available to the PCX upon request for inspection and review. The text of the proposed rule change is below; new language is italicized.

* * * * *

Schedule of Fees and Charges for Exchange Services

PCX Options: Trade-Related Charges

* * * * *

³ Amendment No. 1 replaces the original filing in its entirety. In Amendment No. 1, the Exchange revised the description of the proposed rule change to conform to the proposed rule text and to provide greater detail, referenced the Exchange's pre-filing with the Commission, requested that the Commission waive the 30 day operative period so that the proposal may become operative on August 29, 2002, clarified how the top 250 most actively traded equity options will be selected, and added proposed rule text as exhibits.

⁴ In Amendment No. 2, the Exchange revised the proposed rule text to delete the requirement that the required records include records pertaining to the "origin, use, transfer, distribution and amounts of all payments to order flow providers" and added the requirement that the required records be maintained in such a fashion to permit the Exchange to track payments to order flow providers "on the basis of payment (whether on a per contract or flat fee basis)." Because the Form 19b-4 submitted on August 5, 2002 was not complete, the proposed rule change was not considered filed. The proposed rule change became effective on August 28, 2002, the date on which Amendment No. 2 was filed with the Commission.

Marketing Charge Eligible Issues	Rates Variable—See separate schedule Top 250 most active nationally traded issues
Cap on Marketing	\$200 per trade Charge

* * * * *

Pacific Exchange, Inc
Rules of the Board of Governors

Market Maker Marketing Reports and Record Keeping

Rule 6.41(a) No Change.
(b) *Marketing Charges Record Keeping—Lead Market Makers who make payments to order flow providers as part of the Exchange's marketing charges program, must make, keep current and preserve all books and records relating to marketing charges arrangements, including but not limited to all records pertaining to the identity of the order flow providers. Such records must be maintained in such a fashion as to permit the Exchange to track payments to order flow providers on the basis of payment (whether on a per contract or flat fee basis). Such books and records must be made available to the Exchange upon request.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 31, 2000, the PCX began collecting a marketing fee of \$0.40 per contract on all equity options traded at the PCX.⁵ On August 31, 2001, the Exchange modified its marketing fee program in order to collect marketing fees ranging from \$0 to \$1.00 per contract on a per-issue basis.⁶ The

⁵ See Securities Exchange Act Release No. 43290 (September 13, 2000), 65 FR 57213 (September 21, 2000).

⁶ See Securities Exchange Act Release No. 44830 (September 21, 2001), 66 FR 49728 (September 28, 2001).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange currently charges marketing fees as set forth in its Schedule of Rates.

The Exchange is now proposing to make certain amendments to its marketing fee program. Specifically the Exchange proposes to establish a limit on the number of equity options as to which a marketing fee may be charged to include only those issues that are within the top 250 most active, nationally-traded issues based on volume statistics reported by the Options Clearing Corporation.

The Exchange is also proposing to adopt new Rule 6.41(b) to require PCX Lead Market Makers who make payments to order flow providers as part of the Exchange's marketing fee program to make, keep current, and preserve records relating to payment for order flow arrangements, including but not limited to all records pertaining to the identity of the order flow providers. Such records must be maintained in a fashion to permit the Exchange to track payments made to order flow providers on the basis of payment. Such books and records must be made available to the PCX upon request for inspection and review.

The Exchange's determination of whether an equity option ranks in the top 250 most active, nationally traded issues will be based on volume statistics reported by the Options Clearing Corporation. The Exchange will consider changes to the marketing fees that are charged on a specific issue at the beginning of the March, June, September and December trade months. Any issue that is designated as a top 250 issue at the beginning of the March, June, September or December trade month will remain a top 250 issue for the purposes of charging a marketing fee until at least the next quarter that the Exchange amends its marketing fees. The Exchange will not ordinarily change marketing fees other than on a quarterly basis. The list of designated issues will be based on volume statistics for trading activity that occurred two months before the beginning of each quarter. For example, the list of top 250 issues for the March/April/May quarter will be based on January's volume; and the list of top 250 issues for the June/July/August quarter will be based on April's volume.⁷

The Exchange intends to notify its Members of the issues that are designated to be in the top 250 via a

regulatory bulletin that will be published at the beginning of each quarter.

The Exchange believes the proposed record keeping requirements should help the PCX review and verify that funds collected for order flow purposes are not used for improper purposes.

The Exchange proposes that the changes become effective for the September 2002 trade month.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,⁸ in general, and furthers the objectives of section 6(b)(5) of the Act, in particular, because it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PCX has designated that the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has provided the Commission with written notice of its intent to file the proposed rule change, at least five business days prior to the filing date. Therefore, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

A proposed rule change filed under Rule 19b-4(f)(6)¹² does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The PCX has requested, in order to permit PCX to implement the proposals for the month of September, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b-4(f)(6)(iii).¹³ The Commission believes that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to allow the proposed rule change to become operative as of August 29, 2002.¹⁴

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All

¹² *Id.*

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ For purposes of accelerating the implementation of the proposed rule change only, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ The proposed rule change became effective on August 28, 2002, the date on which Amendment No. 1 was filed with the Commission and, therefore, the 60 day abrogation period began on August 28, 2002.

⁷ The Exchange notes that it intends to use the same procedure for designating the top 250 actively traded issues that it currently uses in designating the top 120 actively traded issues for purposes of its "shortfall fee." See Securities Exchange Act Release No. 45351 (January 29, 2002), 67 FR 5631 (February 6, 2002).

submissions should refer to File No. SR-PCX-2002-52 and should be submitted by September 27, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-22657 Filed 9-5-02; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 4116]

Culturally Significant Objects Imported for Exhibition Determinations: "Drawing Now: Eight Propositions"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibition, "Drawing Now: Eight Propositions," imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Museum of Modern Art QNS, Queens, New York, from on or about October 17, 2002, to on or about January 6, 2003, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619-5997, and the address is United States Department of State, SA-44, Room 700, 301 4th Street, SW., Washington, DC 20547-0001.

Dated: August 29, 2002.

Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02-22739 Filed 9-5-02; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF STATE

[Public Notice 4117]

Culturally Significant Object Imported for Exhibition Determinations: "Galleries for Nineteenth Century European Paintings"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Galleries for Nineteenth Century European Paintings," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY from on or about September 21, 2002 to on or about May 2003, and then at the Art Institute of Chicago from on or about June 16, 2004 until on or about September 19, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Orde F. Kittrie, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/401-4779). The address is Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 26, 2002.

Miller Crouch,

Assistant Secretary for Educational and Cultural Affairs (Acting), Department of State.

[FR Doc. 02-22740 Filed 9-5-02; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF STATE

[Public Notice 4118]

Determination Pursuant to Section 1(b) of Executive Order 13224 Relating to the Eastern Turkistan Islamic Movement (ETIM)

Acting under the authority of section 1(b) of Executive Order 13224 of September 23, 2001, and in consultation with the Secretary of the Treasury and the Attorney General, I hereby determine that the Eastern Turkistan Islamic Movement (ETIM) has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that "prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously," I determine that no prior notice need be provided to any person subject to this determination who might have a constitutional presence in the United States because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: August 19, 2002.

Richard L. Armitage,

Secretary of State, Department of State.

[FR Doc. 02-22737 Filed 9-5-02; 8:45 am]

BILLING CODE 4710-10-P

DEPARTMENT OF STATE

[Public Notice 4082]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 "C" Street NW., Washington, DC, September 23-24, 2002, in Conference Room 1105. Prior notification and a valid photo are mandatory for entrance into the building. One week before the meeting, members of the public planning to attend must notify Gloria Walker, Office of the Historian (202-663-1124) to provide relevant dates of birth, Social Security numbers, and telephone numbers.

The Committee will meet in open session from 1:30 p.m. through 3 p.m.

¹⁶ 17 CFR 200.30(a)(12).

on Monday, September 23, 2002, to discuss declassification and transfer of Department of State electronic records to the National Archives and Records Administration and the status of the Foreign Relations series. The remainder of the Committee's sessions from 3:15 p.m. until 4:30 p.m. on Monday, September 23, 2002, and 9 a.m. until 1 p.m. on Tuesday, September 24, 2002, will be closed in accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463). The agenda calls for discussions of agency declassification decisions concerning the Foreign Relations series. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663-1123, (e-mail history@state.gov).

Dated: August 26, 2002.

Marc J. Susser,

Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State.

[FR Doc. 02-22738 Filed 9-5-02; 8:45 am]

BILLING CODE 4710-11-P

TENNESSEE VALLEY AUTHORITY

Lower Cumberland and Tennessee Rivers, Kentucky Lock Addition Project, Final Supplement 1 Environmental Impact Statement, Department of the Army, United States Army Corps of Engineers

AGENCY: Tennessee Valley Authority.

ACTION: Adoption of Final Supplement 1 Environmental Impact Statement and issuance of record of decision.

SUMMARY: In accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and the Tennessee Valley Authority's (TVA) procedures for implementing the National Environmental Policy Act (NEPA), TVA has decided to adopt the Final Supplement 1 Environmental Impact Statement (FSEIS) issued by the United States Army Corps of Engineers (USACE) in May 2001. The FSEIS, entitled "*Lower Cumberland and Tennessee Rivers, Kentucky Lock Addition Project*," was filed with the Environmental Protection Agency on May 31, 2001. It addresses modifications and design changes to the approved Lock Addition Project not

addressed in earlier NEPA reviews. TVA was a cooperating agency in the preparation of the FSEIS because it has responsibility for Kentucky Dam, including preserving the integrity of the dam and its appurtenant lock structures. TVA also has review and approval responsibilities under Section 26a of the TVA Act and property under TVA control that would be affected. TVA has independently reviewed the FSEIS and finds that the statement adequately addresses the comments and suggestions made by TVA in its role as a cooperating agency. Further, TVA has decided to adopt the USACE's Proposed Action Plan identified in the FSEIS. The Proposed Action Plan is the currently recommended project design based on recent engineering studies, hydraulic modeling information, and newly added features. Overall, the design changes and project modifications reduce the environmental impacts of the original project on high quality mussel resources while improving long-term recreation facilities for fishermen and tourists. None of the proposed changes resulted in public controversy.

FOR FURTHER INFORMATION CONTACT:

Linda B. Shipp, Senior NEPA Specialist, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, Mail Stop WT 8C, Knoxville, Tennessee 37902-1499, telephone (865) 632-3440 or e-mail lboxendine@tva.gov. Copies of the FSEIS may be obtained by writing to Tim Higgs, U.S. Army Corps of Engineers, Nashville District, PO Box 1070 (PM-P), Nashville, Tennessee 37202-1070, telephone (615) 736-7863 or e-mail Timothy.A.Higgs@usace.army.mil.

SUPPLEMENTARY INFORMATION: The Kentucky Lock and Dam (L&D) project is located in Marshall and Livingston Counties in western Kentucky at Tennessee River Mile 22.4. The project is part of the Kentucky-Barkley Reservoirs' navigation system. The originally approved design for the Lock Addition Project was evaluated in a Final Feasibility Study and Final Environmental Impact Statement (FS/FEIS) completed by USACE on March 13, 1992. In its adoption of the FS/FEIS and issuance of a Record of Decision (ROD) on September 30, 1999, TVA adopted the USACE's preferred alternative, Alternative Plan A. Alternative Plan A recommended the construction of a second and main 110-foot-wide by 1200-foot-long navigation lock chamber and related features at the existing Kentucky L&D to improve the capacity and efficiency of the navigation system. The project was authorized by

section 101(a)(13) of the Water Resources Development Act of 1996, and funding to initiate construction was included in the Fiscal Year 1998 Energy and Water Development Appropriations Act.

In recommending the construction of a new navigation lock chamber at Kentucky Dam, the USACE recognized that additional engineering evaluations and hydraulic modeling studies would be required before some features, such as a possible navigation training dike, could be designed. Further, USACE recognized that those modified project components would be addressed in subsequent NEPA documents, tiered from the 1992 FEIS. The FSEIS was prepared to address the project changes not covered by previous NEPA documents.

Alternatives Considered

Two broad plans were considered in the FSEIS: A No Action Plan and a Proposed Action Plan. Under the No Action Plan, the project would be implemented as described in the original 1992 FEIS, as modified in a subsequent October 1999 Environmental Decision Record on the relocation of transmission structures and a March 2000 Environmental Assessment on the relocation of the U.S. Highway 62/641 bridge off Kentucky L&D. Under the Proposed Action Plan, the previously approved project would be implemented with the following design changes and modifications:

- Relocation of the new lock upstream about 200 feet and toward the river about 20 feet.
- Modification of construction methods to reduce the size of areas within cofferdams and to construct more features in the "wet."
- Construction of a non-public, temporary access road from the main lock area to the Vulcan Disposal Area.
- Mitigation for the loss of the TVA Taylor Park Campground (TPC), temporarily closed by TVA in 1997, through construction of facilities for use by fishermen. These new or modified facilities include: A new lock visitors' center, Powerhouse Island fishing pier, additional Powerhouse Island parking and restroom facilities, west bank fishing pier, and improvements to existing coffer cell.
- Placement of fill up to elevation of contour 385 feet in the TPC area during construction and possibly permanently.
- Mitigation for closure of the east bank boat ramp by constructing a new public boat ramp and courtesy dock in an expanded west bank boat basin for use after construction.

- Use of the expanded boat basin for contractor activities during construction.

- Refinements in some upstream lock features and the approach channel.

- Refinements in some downstream lock features and the approach channel.

- Modification of the size and location of the navigation training dike off Powerhouse Island to improve commercial navigation conditions.

- Mitigation for construction-related closures of the west bank by construction of two fishing jetties along the downstream part of the west bank shoreline.

- Elimination of placement of excavated or dredged material on the east bank between Russell Creek and the Interstate 24 bridge.

- Elimination of the aquatic disposal site at Tennessee River Mile 19.9.

All of the items listed above were determined to be independent features, each of which could be dropped from the project without jeopardizing the construction of the new lock chamber or any of the other independent features. In addition, utility lines (including water, sewer, power, and telephone) associated with those features will be constructed and/or relocated within the project boundaries.

The USACE used a 1:100 scale physical model of Kentucky L&D at its Engineering Research and Development Center to evaluate alternative lock orientations and the design of the navigation and spillway training dikes. The model also was used to develop designs of project facilities that would have minimal environmental impacts. The proposed upstream lock location was selected because it reduced construction costs and environmental impacts by reducing previously planned downstream channel and bank modifications. Modeling determined that bank excavations and in-water excavations to widen the downstream navigation channel were not required. With the reduced volume of wet material requiring disposal, the need for an aquatic disposal site at Tennessee River Mile 19.9 was eliminated. In addition, the need for placing rock along the east bank between Russell Creek and the Interstate 24 bridge also was eliminated.

Alternative locations for replacement of the fisherman access intended to be provided by the east bank boat ramp included other east bank locations, expansion of the existing west bank ramp (as proposed in the 1992 FEIS), and construction of a new ramp in an expanded west bank boat basin. Other east bank locations were dropped due to environmental conflicts (extensive

mussel beds) and safety concerns (proximity to lock approach channel). The location of the new ramp in the expanded boat basin was selected because it provided both improved recreational facilities and easy construction access to the river. Alternative contractor ramp locations upstream of the basin in areas with known higher density of mussels were dropped during preliminary scoping discussions with the resources agencies.

Basis for Decision

Like the USACE, TVA has decided to adopt the Proposed Action Plan because it reduces many environmental impacts of the earlier design, including mitigating unavoidable recreational impacts, reducing impacts to listed and non-listed mussel species, and improving recreational fishing. None of the changes resulted in public controversy. The Proposed Action Plan is the environmentally preferable alternative.

Environmental Consequences and Mitigation

As with the preparation of the 1992 FEIS, the issues of major concern for the Supplemental Environmental Impact Statement (SEIS) were impacts to the high quality mussel beds downstream of the L&D and impacts of construction activities on recreation fishing in the tailwater area. Refinements to the lock design have lessened the degree of in-stream work, such as bank excavation and channel dredging, as well as eliminating the need for placement of material along about 3000 linear feet of the right bank from Russell Creek to the Interstate 24 bridge. Construction techniques were modified to reduce the area to be dewatered behind cofferdams. Proposed techniques for building the lower approach wall call for some features (slurry wall and drilled shafts) to be constructed in the "wet." Much of the lower guidewall would be constructed on a working platform typically 5 feet above normal water levels. These changes are expected to reduce potential mussel impacts.

Recreational facilities closed or displaced by construction activities are being mitigated according to plans that have been coordinated with the public and resource agencies. Additional recreational and tailwater fishing facilities are being constructed with funds previously allocated to mitigate the closure of the TVA TPC, including the lock visitors' center, two fishing piers, and additional parking and restroom facilities. As mitigation for the loss of public access to the west bank of the tailwater for 5–8 years during

construction, west bank jetties are being constructed that will provide additional shoreline fishing areas downstream from the construction site. As mitigation for the loss of the east bank boat ramp, a new ramp and courtesy dock will be constructed in the expanded west bank boat basin for post-construction public use.

Relocation and construction of utility lines (including water, sewer, power, and telephone), associated with changes in project design, although not directly addressed in the SEIS, are within the project construction area evaluated in the FSEIS. Most of the proposed utility lines are along an existing right-of-way. As with overall project construction, best management practices will be used to minimize erosion impacts. Therefore, impacts of utility line construction and/or relocation will be minor and localized.

All structures displacing aquatic habitat have been designed to the minimum size necessary to achieve the targeted effects (*i.e.*, addressing river eddy formations). The navigation training dike, spillway training dikes, and the west bank fishing jetties will displace existing river bottom habitat; however, mussel relocation will be conducted for the navigation training dike and west bank jetties to reduce the direct impacts to these resources. The west bank jetties will result in some permanent loss of quality mussel habitat; however, both of those structures should provide long-term improvements for fisheries habitat and benthic macroinvertebrate populations. The structures are to be composed of rock containing minimal amounts of fine material so that objectionable turbidity would not be generated during the construction period. Visual turbidity monitoring will be provided to ensure that in-stream activities do not generate objectionable turbidity.

Overall, the Proposed Action Plan reduces construction impacts of the original project design while improving long-term recreation facilities for fishermen and tourists. The environmental commitments presented in the FSEIS for the Proposed Action Plan include:

- Construction sequencing will be implemented to minimize some project impacts. The west bank fishing jetties would be constructed early to offset impacts from closing areas of the west bank upstream of the boat basin to public access.

- Seasonal restrictions on in-stream, bottom-disturbing activities, such as blasting, dredging, and fill placement, to protect fish spawning. For the tailwater, this seasonal restriction is during

February and March; in the headwater, the restricted period is mid-April to mid-June.

- Active construction areas are to be cordoned off to protect the general public. This would include the west bank above the existing boat basin and localized areas on the river and reservoir during active construction of in-water features.

- Escort tugs will be required during active construction of the lock guidewalls and approach dredging to protect both construction crews and traffic entering/exiting the lock.

- Conducting in-stream activities during low-flow periods, where applicable.

- Visual turbidity monitoring during in-stream activities.

- Use of a weighted silt curtain during construction of the expanded west bank boat basin.

- Use of rock with minimal fines for construction of in-stream structures, such as dikes and jetties.

- Relocation of abundant mussel resources where they occur at in-water construction sites.

- Notification of Kentucky Department of Fish and Wildlife Resources during blasting activities for monitoring potential fish kills.

- Proper control of fugitive dust and tracking of sediment onto public roads.

- Compliance with solid waste regulations for disposal of demolition and construction-related wastes.

- If cultural resources are encountered, work is to stop until the site is investigated by a qualified archaeologist. The existing "protective" layer of fill at archaeological site 15Lv12 will not be modified. The berm separating site 15Lv12 from the Vulcan Disposal Area Haul Road also is to remain undisturbed.

- Stabilization of all disturbed areas after construction including use of native plants where areas are not to be mowed or manicured.

- Wetland mitigation for the entire Lock Addition Project, including the 0.11 acres associated with the Vulcan Disposal Area Haul Road, will be completed at a site in Benton, Kentucky. The wetland mitigation site will be monitored to ensure successful restoration of the hydrology and the establishment of wetland vegetation.
- Restoration of the Livingston County Trail System after construction use of the Vulcan Disposal Area Haul Road.

Further, as stated in the USACE's ROD: "Compliance with applicable environmental review and consultation requirements has been accomplished through the development of the FSEIS.

The FSEIS documents consideration and compliance with the Clean Water Act; the Endangered Species Act; the National Environmental Policy Act; the National Historic Preservation Act; Executive Order 11988 (Floodplain Management); Executive Order 12898 (Environmental Justice); Executive Order 11990 (Protection of Wetlands); Section 504 of the Rehabilitation Act of 1973 and the Architectural Barriers Act of 1968, and other applicable environmental protection statutes, regulations, and orders. * * *

Dated: August 28, 2002.

Kathryn J. Jackson,

Executive Vice President.

[FR Doc. 02-22675 Filed 9-5-02; 8:45 am]

BILLING CODE 8120-08-P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1541).

TIME AND DATE: 9 a.m. (EDT), September 10, 2002.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on July 23, 2002.

New Business

Discussion Item

Budget and Financing

A1. Approval of short-term borrowing from the United States Treasury.

A2. Approval of Fiscal Year 2003 TVA budget and change in accounting policy.

C—Energy

C1. Supplements to contracts with MESA Associates, Inc., and Sargent & Lundy LLC for engineering and design services.

C2. Contract with Pinkerton Government Services, Inc., for security services.

C3. Extension through 2010 of the march 3, 1999, delegation of authority to the Senior Vice President, Procurement, or a designee, to enter into individual contracts of up to \$15 million each for uranium.

C4. Contract with Westinghouse Process Controls, Inc., for a distributed control system at various fossil plants.

Real Property Transactions

E1. Approval of the Pickwick Reservoir Land Management Plan for

the use and management of 19,238 acres of land on Pickwick Reservoir in Colbert and Lauderdale Counties, Alabama; Tishomingo County, Mississippi; and Hardin County, Tennessee.

E2. Public auction sale of approximately 6 acres of land on Pickwick Reservoir in Tishomingo County, Mississippi, to facilitate industrial development, Tract No. XYECR-13.

E3. Sale of a permanent easement to the Pickwick Cemetery Association for a cemetery expansion, affecting approximately .3 acre of land on Pickwick Reservoir in Hardin County, Tennessee, Tract No. XPR-465CE.

E4. Sale of noncommercial, nonexclusive permanent easements to Hiwassee Properties, Inc., Tract No. XTELR-230RE; Robert D. and Carolyn A. Franke, Tract No. XTELR-231RE; and Bobby E. Booker, Tract No. XTELR-232RE, affecting approximately .21 acre of land on Tellico Reservoir in Loudon and Monroe Counties, Tennessee, for construction and maintenance of recreational water-use facilities on Tellico Reservoir in Loudon and Monroe Counties, Tennessee.

E5. Grant of a permanent easement to the City of Lexington, Tennessee, for highway improvement purposes affecting approximately .12 acre of land on the Beech Dam Reservation in Henderson County, Tennessee, Tract No. XTBRBR-4H.

E6. Grant of a 30-year term public recreation easement to the Alabama Department of Conservation and Natural Resources, affecting approximately 6,486 acres of land on Pickwick Reservoir in Lauderdale County, Alabama, Tract No. XTPR-60WL.

E7. Transfer of 811 acres of land on Tims Ford Reservoir in Franklin and Moore Counties, Tennessee, Tract Nos. XTTMFR-23 through -41, to the State of Tennessee; grant of a permanent easement for state office building purposes affecting .4 acre of land in Franklin County, Tennessee, and grant of a permanent easement for a water intake and pumping station affecting .2 acre in Moore County, Tennessee, Tract Nos. XTTMFR-43B and XTTMFR-44PS; and acquisition of 2,000 acres of land in Franklin and Moore Counties, Tennessee, from the State of Tennessee, Tract Nos. TMFR-3409 through -3518.

E8. Grant of a permanent easement for an office/operations building to Tellico Area Services System, affecting approximately 4.7 acres of land on Tellico Reservoir in Monroe County, Tennessee, Tract No. XTTELR-41E.

E9. Grant of a 19-year term public recreation easement to the Alabama Department of Conservation and Natural

Resources, affecting approximately .2 acre of land on Guntersville Reservoir in Jackson County, Alabama, Tract No. XTGR-170RE.

E10. Public auction sale of approximately 2.56 acres in Whitfield County, Georgia, Tract Nos. XRSCP-1, XRSCP-2, XRSCP-3, XRSCP-4, and XRSCP-5.

Information Items

1. Approval of wholesale power contract flexibility options.

2. Approval to supplement contract with Page Clearing Contractors for right-of-way clearing to support new transmission line construction.

3. Approval of contract with Universal Construction Company, Inc., for the construction of a new administration building at Browns Ferry Nuclear Plant.

4. Approval of membership and chair appointments to the second-term Regional Resource Stewardship Council.

For more information: Please call TVA Media Relations at (865) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898-2999. People who plan to attend the meeting and have special needs should call (865) 632-6000.

Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: September 3, 2002.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 02-22849 Filed 9-4-02; 3:52 pm]

BILLING CODE 8120-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following

collection of information was published on June 12, 2002, page 40373.

DATES: Comments must be submitted on or before October 7, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267-9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Financial Responsibility Requirements for Licensed Launch Activities.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120-0649.

Form(s): NA.

Affected Public: A total of 5 businesses conducting reentry operations.

Abstract: Information to be collected supports the FAA in determining the amount of required liability insurance for a reentry operator after examining the risk associated with a reentry vehicle, its operational capabilities, and its designed reentry site. The information allows AST to preempt and conflicting or inconsistent requirements in any agreement the licensee may have previously entered into with other agencies of the United States concerning access to or use of United States launch property or launch services.

Estimated Annual Burden Hours: An estimated 1305 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 28, 2002.

Judith D. Street,

FAA Information Collection Clearance Officer, Standards and Information Division, APF-100.

[FR Doc. 02-22754 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02-03-U-00-PUW) To Use Only the Revenue From a Passenger Facility Charge (PFC) at Pullman-Moscow Regional Airport, Submitted by the City of Pullman, Pullman-Moscow Regional, Pullman, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use PFC revenue at Pullman-Moscow Regional Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager; Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055-4056

In addition, one copy of any comments submitted to the FAA must be mailed or delivered Mr. Robb Parish, Airport Manager, at the following address: Pullman-Moscow Regional Airport, 3200 Airport Complex North, P.O. Box 249, Pullman, Washington 99163-0249.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Pullman-Moscow Regional Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227-2654, Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055-4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 02-03-U-00-PUW to use PFC revenue at Pullman-Moscow Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 12, 2002, the FAA determined that the application to use the revenue from a PFC submitted by The City of Pullman-Moscow Regional Airport Pullman, Washington, was substantially complete within the

requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 12, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: \$4.50.

Proposed charge effective date:

November 1, 2002.

Proposed charge expiration date: May 1, 2004.

Total requested for use approval: \$290,000.00.

Brief description of proposed project:

Purchase Land Leased from Washington State University; Purchase New Snowplow; Rehabilitate Terminal Apron; Rehabilitate Runway 5/23; Taxiway Edge Lighting.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: Air taxi/commercial operators who conduct operations in air commerce carrying persons for compensation or hire.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue, SW., Suite 315, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Pullman-Moscow Regional Airport.

Issued in Renton, Washington, on August 12, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02-22752 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (02-04-C-00-PUW) To Impose and Use, the Revenue From a Passenger Facility Charge (PFC) at Pullman-Moscow Regional Airport, Submitted by the Pullman-Moscow Regional Airport, Pullman, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the

application to: impose and use PFC revenue at Pullman-Moscow Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before October 7, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. J. Wade Bryant, Manager; Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250, Renton, Washington 98055-4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robb Parish, Airport Manager, at the following address: 3200 Airport Complex North, PO Box 249, Pullman, WA 99163-0249.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Pullman-Moscow Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, (425) 227-2654, Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055-4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 02-04-C-00-PUW to impose and use PFC revenue at Pullman-Moscow Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 12, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Moscow-Pullman Regional Airport Name, Pullman, Washington was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 12, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: \$4.50.

Proposed charge effective date: May 1, 2004.

Proposed charge expiration date: January 1, 2005.

Total requested for use approval: \$89,900.00.

Brief description of proposed project: Purchase Kopf LLC property (for RPZ); Snow Removal Equipment Building Expansion; Security Upgrades; Airfield Friction Meter Device.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: Air Taxi/ Commercial Operators who conduct operations in air commerce carrying persons for compensation for hire.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Pullman-Moscow Regional Airport.

Issued in Renton, Washington, on August 12, 2002.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 02-22753 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lincoln County, Oregon

AGENCY: Federal Highway Administration (FHWA); Department of Transportation

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway improvement in Lincoln County, Oregon. The proposed project is near the rural unincorporated community of Beverly Beach. The Oregon Department of Transportation (ODOT) and FHWA will be analyzing alternatives to constructing a modified or replacement crossing of US 101 over Spencer Creek.

FOR FURTHER INFORMATION CONTACT: Anthony Boesen, Region 2 Liaison Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE, Salem, Oregon 97301, Telephone (503) 399-5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with ODOT and the U.S. Army Corps of Engineers (COE), will conduct technical studies, prepare a Draft EIS (DEIS), and conduct a public open house to receive comments regarding the proposed

action in accordance with the National Environmental Policy Act (NEPA).

The proposed project is necessary to maintain US 101 as a functional state lifeline highway route. The proposed project will involve a replacement bridge crossing of Spencer Creek on US 101 and construction of stable approaches to the bridge. The original Spencer Creek bridge, built in 1947 and located about six miles north of Newport, Oregon has deteriorated to the point that it has been determined unsafe and closed to traffic. A temporary bridge was constructed in 1999 immediately shoreward of the old bridge and has a design service life of five to eight years. Consequently, the existing Spencer Creek Bridge across the stream must be replaced. The sea cliffs and embankments that support the US 101 approaches to the old and temporary bridges are adjacent to the beach and are unstable. They have been substantially damaged from erosion caused by waves attacking the sea cliff. Landslides have also damaged the existing highway, and may pose hazards further inland. Consequently, any long term solution to the bridge problem will also need to involve stabilization of roadway approaches to any bridge crossing Spencer Creek in order to maintain the state lifeline highway route.

Possible Build Alternatives that will be considered as the proposed project develops will involve two basic concepts. The first concept would generally follow the existing alignment of US 101. The second concept would realign the highway inland and away from the beach. Depending on the location of the highway under either concept, shoreline stabilization may be required. As required by NEPA, a No-Build Alternative will be considered to provide an understanding about what will happen if nothing is done to solve the problem. The DEIS will address the No-Build Alternative and one or more Build Alternatives.

While the FHWA will be the lead agency for preparing the EIS, the COE will be a cooperating agency. Under section 103 of the 1962 River and Harbor Act, the COE has approved funding for planning, engineering and environmental investigations for shoreline stabilization options that would protect US 101 highway facilities along the beach. The COE is expected to consider as part of the proposed action some or all of the following design options—off shore breakwater, terracing the sea cliff, sea cliff toe armoring, and beach nourishment. Pursuant to the NEPA, the COE's analysis of the proposed action will be incorporated into the EIS.

Public workshops, meetings, and a public open house will be held as needed to identify an adequate range of reasonable alternatives, review alternatives, and aid in selection of an alternative. Appropriate notice to interested parties will be provided for all public gatherings regarding the proposed.

The EIS process will combine COE, and FHWA/ODOT work into one series of environmental documents (e.g., technical reports, DEIS, and Final EIS). In conjunction with the FHWA's Record of Decision for the Final EIS, the COE will make a determination regarding the proposed action impacts as required by NEPA for inclusion into their Record of Decision.

To ensure that the full range of issues related to the proposed action are addressed and potentially significant and insignificant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program.)

Issued on: August 28, 2002.

Elton Chang,

Environmental Engineer, Oregon Division.

[FR Doc. 02-22678 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Required Notification of National Response Center

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: The Office of Pipeline Safety (OPS) is issuing this advisory to owners and operators of gas distribution, gas transmission, and hazardous liquid pipeline systems, and liquefied natural gas (LNG) facilities. Owners and operators should ensure that telephonic reports of incidents to the National Response Center (NRC) are both prompt and accurate and fully communicate the estimated extent of the damages. Additional reports should be made if there is a significant change in an estimate of the size of the gas or liquid

release, the extent of the damage, or the number of deaths or injuries.

OPS is issuing this advisory bulletin to ensure that the National Transportation Safety Board (NTSB) and the OPS are notified (via the NRC) when the information provided in the initial telephonic report significantly changes due to new information available soon after the initial report.

FOR FURTHER INFORMATION CONTACT: Roger Little, (202) 366-4569; or by e-mail, roger.little@rspa.dot.gov. This document can be viewed at the OPS home page at <http://ops.dot.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

The pipeline safety regulations require gas pipeline, hazardous liquid pipeline, and LNG facility operators to make a telephonic report of a pipeline incident to the NRC in Washington, DC at the earliest practicable opportunity. For the purposes of this document, the term incident will refer to either an incident, an accident, a leak or a spill (the term differs in the regulations depending on whether the release involves gas, hazardous liquid or LNG). The information required to be reported includes the name of the operator, the name and telephone number of the person making the report, the location of the incident, the number of fatalities and injuries, and all other relevant significant facts. (49 CFR 191.5, 193.2011, and 195.52.)

Because an operator is required to make a telephonic report at the earliest practicable moment following discovery, an operator normally provides the first telephonic notification one to two hours after it discovers an incident on its pipeline. Additional information on the nature, cause, and extent of the damage usually becomes available as emergency response proceeds. If this additional information leads to a significant change (greater or lesser) in the estimated amount of product released, the estimated number of fatalities and injuries, the extent of environmental damage, or the extent of property damage, the operator should make an additional telephonic report to the NRC. OPS considers a significant change to include any of the following:

1. An increase or decrease in the number of previously reported injuries or fatalities;

2. A revised estimate of the product release amount that is at least 10 times greater than the amount reported; for example, the initial reported amount of product released was 300 barrels and the revised estimated amount is 3,000 barrels;

3. A revised estimate of the property damage that is at least 10 times greater than the reported property damage estimate; for example, the initial reported amount of damage was 100,000 dollars and the revised estimate is 1,000,000 dollars.

Often when the telephonic report is made, early information on an incident is incomplete. Sometimes, new information changes the understanding of the severity or nature of the incident. Although the telephonic reporting regulations do not state that multiple reports are required, the nature and timing of emergency response are dependent on the information reported to the NRC. It is critical that an operator provide accurate information on the extent of the incident. Therefore, OPS expects an operator to provide significant update information during the emergency response phase. For natural gas or LNG events, the initial emergency response phase usually ends between 24 and 48 hours following an incident. For hazardous liquid events, the initial emergency response phase may last several days as spill clean-up continues. Once the emergency response phase is complete, OPS does not expect an operator to continue to update the NRC throughout long-term recovery or remedial action activities.

Some hazardous liquid operators do not provide an estimated product release amount when reporting an incident to the NRC. OPS recognizes the difficulty in estimating spill amounts, especially if the release is underground or into water. However, OPS's and NTSB's response to the incident may depend on the reported spill size. OPS and NTSB may not investigate a ten barrel spill and may perform an onsite investigation of a 20,000 barrel spill. To get this critical information, OPS is asking the NRC to request operators to provide an estimate of the spill amount. If an estimated amount is not provided, NRC assumes, for emergency notification and response purposes, that a major spill has occurred. Therefore, if the operator does not provide a spill estimate, NRC will enter a default spill estimate of 1,000 barrels. OPS will be notified of all spills over 500 barrels and any spill over 100 barrels that impacts water.

In providing information on significant changes from the original telephonic report, operators need to be aware that the NRC does not update a prior report, but, instead, accepts additional reports. An operator should tell the NRC representative if a previous report was filed for the incident and provide the NRC Report Number of the original telephonic.

II. Advisory Bulletin (ADB-02-04)

To: Owners and Operators of Gas Distribution, Gas Transmission, and Hazardous Liquid Pipelines, and LNG Facilities

Subject: Telephonic Notification to NRC

Purpose: To advise owners and operators of gas distribution, gas transmission, and hazardous liquid pipeline systems and LNG facilities of the need to promptly contact the NRC after a pipeline incident is discovered and to file additional telephonic reports if there are significant changes in the number of fatalities or injuries, product release estimates or the extent of damages.

Advisory: Owners and operators of gas and hazardous liquid pipelines and LNG facilities are reminded that the pipeline safety regulations require operators to make a telephonic report of an incident to the NRC in Washington, DC at the earliest practicable opportunity, usually one to two hours after discovering the incident. The information required to be reported includes the name of the operator, the name and telephone number of the person making the report, the location of the incident, the number of fatalities and injuries, and all other significant facts that are relevant to the cause of the incident or extent of the damages. (49 CFR 191.5, 193.2011, and 195.52.)

If, during the emergency response period, additional information about the incident becomes available that shows a significant change in the number of fatalities and injuries, product release estimate, or the extent of property damage, an additional report to the NRC will be necessary. Although the regulation does not state that additional revised reports are required, it is important for emergency response purposes that the NRC be given accurate information on the extent of the incident.

The NRC will accept additional reports, but will not update a previous report. Therefore, operators should file an additional report(s) when circumstances and estimates change significantly. An operator should provide an estimate of the damage in the initial report and in any subsequent report. The operator should include the NRC Report Number of the initial report when making a subsequent report. If an operator reports that a damage estimate is unknown or unavailable, the NRC will assume that a major spill has taken place for emergency notification and response purposes.

Issued in Washington, DC, on August 30, 2002.

James K. O'Steen,

Deputy Associate Administrator for Pipeline Safety.

[FR Doc. 02-22734 Filed 9-5-02; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF VETERANS AFFAIRS

President's Task Force To Improve Health Care Delivery for Our Nation's Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that a meeting of the President's Task Force to Improve Health Care delivery for Our Nation's Veterans is scheduled for Wednesday, September 11, 2002, beginning at 9 a.m. and adjourning at 4:45 p.m. and Thursday, September 12, 2002, beginning at 9 a.m. and adjourning at 1 p.m. The September 11 session will be held in the Horizon Ballroom of the Ronald Reagan Building International Trade Center, 1300 Pennsylvania Avenue, NW., Washington DC. The September 12 session will be held in the Washington Ballroom of the Radisson Hotel Old Town, 901 North Fairfax Street, Alexandria, VA. Both sessions are open to the public.

The purpose of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans is to:

(a) Identify ways to improve benefits and services for Department of Veterans Affairs (VA) beneficiaries and Department of Defense (DoD) military retirees who are also eligible for benefits from VA, through better coordination of the activities of the two departments;

(b) Identify opportunities to remove barriers that impede VA and DoD coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement; and

(c) Identify opportunities through partnership between VA and DoD, to maximize the use of resources and infrastructure, including buildings, information technology and data sharing systems, procurement of supplies, equipment and services.

On the morning of September 11, the President's Task Force will receive presentations by and have discussions with Dr. Robert H. Roswell, Under Secretary for Health, Department of Veterans Affairs. For the remainder of the day, staff consultants will lead a discussion of major themes and issues to be addressed in the Final Report of the President's Task Force.

On September 12, the President's Task Force will receive a presentation by and have discussions with Mr. Thomas A. Scully, Administrator, Centers for Medicare and Medicaid Services, and Mr. John G. Clarkson, MD, Dean, University of Miami Medical School, representing the Association of American Medical Colleges.

Interested parties can provide written comments to Mr. Dan Amon, Communications Director, President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, 1401 Wilson Boulevard, 4th Floor, Arlington, Virginia, 22209.

Dated: August 27, 2002.

By Direction of the Secretary:

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02-22726 Filed 9-5-02; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Notice of Meeting

As required by the Federal Advisory Committee Act, the Department of Veterans Affairs (VA) gives notice that the Special Medical Advisory Group has scheduled a meeting on Wednesday, September 25, 2002. The meeting will convene at 9 a.m. and end at 2 p.m. The meeting will be held at VA Central Office, 810 Vermont Avenue, NW., Room 830, Washington, DC. The purpose of the meeting is to advise the Secretary and Under Secretary for Health relative to the care and treatment of disabled veterans and other matters pertinent to the Department's Veterans Health Administration.

The agenda for the meeting will include: an update on Enrollment; Budget; Long Term Care; Tertiary and Specialized Care; Waiting Times; Workforce needs; and Capital Asset Realignment for Enhance services program.

All sessions will be open to the public. Those wishing to attend should contact Ms. Celestine Brockington, Office of the Under Secretary for Health (10A), Department of Veterans Affairs. Her phone number is (202) 273-5860.

Dated: August 26, 2002.

By Direction of the Secretary:

Nora E. Egan,

Committee Management Officer.

[FR Doc. 02-22725 Filed 9-5-02; 8:45 am]

BILLING CODE 8320-01-M

Corrections

Federal Register

Vol. 67, No. 173

Friday, September 6, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF GOVERNMENT ETHICS

Issuance and Revocation of Temporary Post-Employment Waiver

Correction

In notice document 02-22204 beginning on page 55844 in the issue of Friday, August 30, 2002, make the following correction:

On page 55844, in the **EFFECTIVE DATE:** section, "October 29, 2002" should read "November 29, 2002".

[FR Doc. C2-22204 Filed 9-5-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of OIG Special Advisory Bulletin on Offering Gifts and Other Inducements to Beneficiaries

Correction

In notice document 02-22124 beginning on page 55855 in the issue of

Friday, August 30, 2002, make the following correction:

On page 55858, in the first column, in the fourth full paragraph, in the second line from the bottom, the web address "<http://oig.hhs.gov/advopn/index.htm>," should read "<http://oig.hhs.gov/fraud/advisoryopinions.html>".

[FR Doc. C2-22124 Filed 9-5-02; 8:45 am]

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46376; File No. SR-NASD-99-04]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Microcap Initiative—Recommendation Rule

Correction

In notice document 02-21651 beginning on page 54832 in the issue of Monday, August 26, 2002, make the following correction:

On page 54835, in the second column, in section **V. Solicitation of Comments**, in the last two lines, "[insert date 21 days from date of publication]" should read "September 16, 2002".

[FR Doc. C2-21651 Filed 9-5-02; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02-ACE-7]

Proposed Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; and Modification of Class E Airspace; Knob Noster, Whiteman AFB, MO

Correction

In proposed rule document 02-21136 beginning on page 55180 in the issue of Wednesday, August 28, 2002 make the following correction:

§71.1 [Corrected]

On page 55181, in the second column, in § 71.1, under the heading **ACE MO E2 Knob Noster, MO [Revised]**, in the sixth line, "long. 93° 34' 231" W.)" should read "long. 93° 34' 21" W.)".

[FR Doc. C2-21136 Filed 9-5-02; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Friday,
September 6, 2002**

Part II

Department of Labor

Employment and Training Administration

**Workforce Security Programs:
Unemployment Insurance Program Letter
Interpreting Federal Law; Notice**

DEPARTMENT OF LABOR**Employment and Training
Administration****Workforce Security Programs:
Unemployment Insurance Program
Letter Interpreting Federal Law**

The Employment and Training Administration interprets federal law requirements pertaining to unemployment compensation (UC). These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to State Workforce Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL No. 30-02

UIPL No. 30-02 and its attachment provides the states with the requirements of the Temporary Extended Unemployment Compensation (TEUC) Act of 2002 as operating instructions and responses to questions raised pertaining to the TEUC program. With minor clarifying modifications to the instructions, this document consolidates the previous instructions to states for the treatment of claims filed under the TEUC program.

Dated: August 26, 2002.

Emily Stover DeRocco,
Assistant Secretary.

Employment and Training
Administration, Advisory System, U. S.
Department of Labor, Washington, DC
20210

Classification: OWS.

Correspondence Symbol: OIS/DUO.
Date: July 5, 2002

Advisory: Unemployment Insurance
Program Letter No. 30-02.

To: All State Workforce Agencies.

From: Grace A. Kilbane,
Administrator, Office of Workforce
Security.

Subject: Temporary Extended
Unemployment Compensation (TEUC)
Act of 2002.

1. *Purpose.* To provide State Workforce Agencies (SWAs) with a consolidated document of the instructions for implementing and operating the TEUC program, including fiscal and reporting instructions and to clarify certain matters.

2. *References.* Title II of the Job Creation and Worker Assistance Act of 2002 (The Temporary Extended Unemployment Compensation Act of 2002), Public Law 107-147, signed by the President on March 9, 2002; section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; section 233 of the

Trade Act of 1974; 20 CFR part 615; ET Handbook No. 401; ET Handbook No. 410.

3. *Summary.* The TEUC program provides up to 13 weeks of 100 percent federally financed benefits in all states and up to an additional 13 weeks in states that are in an Extended Benefit (EB) period or would be in an EB period using a 4% insured unemployment rate trigger.

TEUC is payable to individuals who (1) filed an initial (new or additional) claim that was effective during or after the week of March 15, 2001; and (2) have exhausted regular benefits or have no benefit rights due to expiration of a benefit year ending during or after the week of March 15, 2001; and (3) have no rights to regular or extended benefits under any state or federal law; and (4) are not receiving benefits under Canadian law.

Rescissions: UIPL 17-02; UIPL 17-02, Change 1; UIPL 18-02; UIPL 18-02, Change 1.

Expiration Date: Continuing.

However, the Governor of a state may elect to pay TEUC in lieu of Extended Benefits.

In general, in order to qualify for TEUC, individuals must have had employment of 20 weeks of work, or the equivalent in wages, in their base periods. Continuing eligibility is determined under the requirements of the state law.

TEUC is administered through voluntary agreements between states and the Department of Labor. TEUC is payable in a state the week following the week in which an agreement is signed. The first week for which benefits may be paid is the week beginning March 10, 2002. The last week for which benefits are payable is the week ending December 28, 2002 (December 29, 2002 for New York).

SWAs are required to submit a separate financial status report (Standard Form 269) for administrative grants and costs associated with the Temporary Extended Unemployment Compensation (TEUC) program.

4. *Policy.* This document furnishes information about the TEUC program and provides the Department's interpretation of the TEUC Act. It also sets forth operating instructions of the Department of Labor to guide states in implementing and administering the TEUC program.

The instructions in this document are issued to the states and cooperating state agencies as guidance provided by the Department of Labor in its role as the principal in the TEUC program. As agents of the United States, the states and cooperating state agencies may not

vary from the operating instructions in the document without the prior approval of the Department. The interpretations, policies, and procedures issued in this document supercede those previously issued as UIPL 17-02, UIPL 17-02, Change 1, UIPL 18-02 and UIPL 18-02, Change 1.

5. *Summary of Changes.* This document contains the following changes to previously issued procedures:

- In section I, the last sentence of Section 206(c)(1) is corrected to include the 50 percent limitation on offsets.
- Section II, the definition of “applicable benefit year” has been clarified.
- Section IV.2(d) is changed to delete the requirement for the issuance of a Report of Determination of a Combined- Wage Claim (CWC), TC-IB5 and quarterly CWC benefit charging to the transferring state. States were previously notified of this change in the Question and Answers.
- Section IV.6. is changed to clarify the distinction between the application of state law provisions for waiver of an overpayment and the application of the provisions of the optional TEUC waiver, and to clarify the optional TEUC waiver requirements.
- Section VI.4 is changed to reflect the Office of Management and Budget's (OMB) approval of the TEUC reporting instructions.
- Several Questions and Answers are modified to reflect the correct procedural reference only and one question and answer added pertaining to Additional Trade Readjustment Assistance benefits.

6. *Action Required.* Administrators are requested to provide this information and instructions to the appropriate staff.

7. *Inquiries.* Direct questions to the appropriate Regional Office.

8. *Attachment.* Implementing and Operating Instructions for the TEUC Program

**Temporary Extended Unemployment
Compensation Act of 2002****Implementing and Operating
Instructions for the TEUC Program****Introduction****Section I—Title II of Public Law 107-147****Section II—Definitions of Terms Used in this Document**

1. Act
2. Additional Compensation
3. Agreement
4. Applicable Benefit Year
5. Applicable State
6. Applicable State Law

7. Base Period
8. Benefit Year
9. Compensation
10. Extended Compensation
11. Regular Compensation
12. Secretary
13. State
14. State Agency
15. State Law
16. Temporary Extended Unemployment Compensation
17. TEUC First Tier
18. TEUC Second Tier
19. Week
20. Week of Unemployment

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 - b. Notification of the Media
 3. Relationship of EB to TEUC
 4. Effect of Additional Benefit Eligibility in the State
 5. Eligibility for Temporary Extended Unemployment Compensation
 - a. Basic Eligibility Requirements
 - b. Determining Exhaustees
 - c. Applicability of State Law Provisions
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 - e. Effect of Other UI-Related Programs on Eligibility for TEUC
 - (1) Trade Readjustment Allowances (TRA)
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 - a. Total Unemployment
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 - a. Record Maintenance
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 - b. Overpayments

- (1) Application of State Waiver Provision
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21. TEUC and Benefit Accuracy Measurement (BAM) Sampling

Introduction

Title II of Public Law 107-147 is short-titled the "Temporary Extended Unemployment Compensation Act of 2002" and is referenced throughout this publication as the "Act."

The Act creates a federally funded benefit extension, called Temporary Extended Unemployment Compensation (TEUC), which provides up to 26 weeks of benefits to exhaustees, as defined,

who otherwise meet the requirements of the Act.

Throughout these instructions various references are made to state laws pertaining to the payment of regular benefits by using such phrases as "in accordance with" or "as required by" or similar phrasing. In all cases such phrasing means law provisions as they apply to the determination and payment of regular benefits.

These instructions reference sections of the Federal-State Extended Unemployment Compensation Act of 1970 by using such phrases as "in accordance with" or "as required by" or similar phrasing. In all cases such phrasing mean state law provisions that are "in accordance with" or "as required by" the specific provisions of the Federal-State Extended Unemployment Compensation Act of 1970, as implemented by 20 CFR part 615.

Section I—Title II of Public Law 107-147

Title II of Pub. L. 107-147 may be found at <http://www.access.gpo.gov>.

Section II—Definition of Terms Used Throughout This Document

This section contains the definitions of terms used throughout this document. To the extent possible, these definitions follow the EB regulations found at 20 CFR 615.2 as required by section 207 of the Act regarding these terms listed there. References to 5 U.S.C. Chapter 85 are to the UCFE/UCX law.

1. "Act" means the Temporary Unemployment Compensation Act of 2001, Title VII, Public Law 107-147.

2. "Additional Compensation" means compensation totally financed by a state under its law by reason of conditions of high unemployment or by reason of other special factors, and when so payable includes compensation payable pursuant to 5 U.S.C. Chapter 85.

3. "Agreement" means the agreement entered into pursuant to the Act between a state and the Department of Labor, under which the state agency makes payments of TEUC in accordance with the Act as interpreted by the Secretary or the Department of Labor as set forth in these instructions or other instructions issued by the Department.

4. "Applicable Benefit Year" means, the current benefit year, with respect to an individual with an unexpired benefit year only in the state in which an initial claim for TEUC is filed. In any other case, when the individual has unexpired or expired benefit year(s) in more than one state, the applicable benefit year is the individual's most recent benefit year ending during or

after the week of March 15, 2001. The most recent benefit year, for an individual who has benefit years ending during or after the week of March 15, 2001, in more than one state, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed.

5. "Applicable State" means, with respect to an individual, the state with respect to which the individual is an exhaustee for TEUC purposes, and, in the case of a combined wage claim for regular compensation, the term means the "paying State" for such claim as defined in 20 CFR 616.6(e).

6. "Applicable State Law" means the state law of the state which is the applicable state for an individual.

7. "Base Period" means, with respect to an individual, the base period as determined under the applicable state law for the individual's applicable benefit year.

8. "Benefit Year" means, with respect to an individual, the benefit year as defined in the applicable state law.

9. "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation, extended compensation and TEUC as defined in this section.

10. "Extended Compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an extended benefit period, under those provisions of a state law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to as Extended Benefits or EB.

11. "Regular Compensation" means compensation payable to an individual under any state law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85, but does not include extended compensation or additional compensation.

12. "Secretary" means the Secretary of Labor of the United States.

13. "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

14. "State Agency" means the Employment Security Agency (currently

referred to as the State Workforce Agency) of a state which administers the state law.

15. "State Law" means the unemployment compensation law of a state approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

16. "Temporary Extended Unemployment Compensation" means the extended compensation payable under the Act, and which is referred to as TEUC, TEUC first tier, TEUC second tier (TEUC-X).

17. "TEUC First Tier" means the amount of TEUC benefit payable to an individual based on a determination of entitlement under the requirements of section 203(b)(1) of the Act.

18. "TEUC Second Tier" means the amount of TEUC benefit payable to an individual based on a determination of entitlement under the requirements of section 203(c) of the Act and is synonymous with TEUC-X.

19. "Week" means, for purposes of eligibility for and benefit payments under this Act, a week as defined in the applicable state law.

20. "Week of Unemployment" means a week of total, part-total, or partial unemployment as defined in the applicable state law, which shall be applied in the same manner to the same extent to claims filed under the requirements of this Act.

Section III—Implementing the Requirements of the Act

1. *Beginning and Ending of the TEUC Program in a State.* TEUC is payable in a state beginning with the first week which begins after the date an Agreement is signed between the state and the Department of Labor. The last week of TEUC payable is the last week ending prior to January 1, 2003.

States may terminate the TEUC agreement upon 30 days written notice. The TEUC period will end in a state 30 days from the date the state notifies the Secretary of its election to terminate the TEUC program. No TEUC will be payable for weeks which begin after the date the termination of the agreement is effective. However, TEUC is payable for weeks of unemployment up to such termination date. The agreement may also be terminated by the Secretary, as provided in the agreement.

2. Notifications.

a. *Identification and Notification of Potentially Eligible Claimants.* The state will identify individuals who are potentially eligible for TEUC, and provide each such individual with appropriate written notification of his/her potential entitlement to TEUC.

A potentially eligible claimant is any claimant who has a benefit year that ends during or after the week of March 15, 2001, and has received all regular compensation payable based on employment and/or wages during the applicable base period, or whose rights to regular compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(1) *Interstate Claims.* TEUC is payable to individuals filing under the Interstate Benefit Payment Plan (IBPP) in the same manner and to the same extent that benefits are payable to intrastate claimants without regard to whether or not the claim is filed through an agent state or directly with the liable state.

The liable state is responsible for identifying and notifying all potentially eligible interstate claimants of their potential eligibility, including filing instructions.

b. *Notification of Media.* To assure public knowledge of the status of the TEUC program, the state shall notify all appropriate news media having coverage throughout the state of the beginning of the TEUC program.

3. *Relation of EB to TEUC.* Section 202(e) of the Act allows, if state law permits, the payment of TEUC "in lieu of" EB to a TEUC-eligible individual. If a state elects to pay TEUC in lieu of EB, the amount of individual's EB entitlement is not otherwise affected: EB is deferred, not reduced. As a result, if the state is in an EB period when the individual exhausts all TEUC first and second-tier eligibility (see section 6.b of this section of the operating instructions), any individual meeting the EB eligibility requirements may receive any remaining EB entitlement.

Under the Act, the receipt of EB does not reduce the amount of TEUC payable. A state is not required to trigger "off" EB if it elects to pay TEUC in lieu of EB.

4. *Effect of Additional Benefit (AB) Eligibility in a State.* Although section 202(b) of the Act requires that an individual have no rights to regular compensation or EB in order to meet the eligibility requirements for TEUC, it requires the payment of TEUC regardless of AB eligibility. A state with an AB program in effect may pay AB following the payment of TEUC. AB does not affect the TEUC maximum benefit amount (MBA). Please note that section 209(b) of the Act amends section 903 of the Social Security Act by adding subsection (d)(3)(B)(i)(II) to allow the special \$8 billion Reed Act distribution to be used for the payment of AB to exhaustees of TEUC.

5. *Eligibility for Temporary Extended Unemployment Compensation.*

a. *Basic Eligibility Requirements.* To be eligible for a week of TEUC an individual, in addition to meeting other applicable State law provisions, must:

(1) have exhausted all rights to regular compensation under the applicable state law with respect to the applicable benefit year.

(2) have no rights to regular or extended compensation with respect to the week under such law or any other state or Federal unemployment compensation law.

(3) not be receiving compensation with respect to such week under the unemployment compensation law of Canada,

(4) have filed an initial claim, new or additional, effective during or after the week of March 15, 2001. Although the Act says "on or after" March 15, UI eligibility is determined on a weekly basis; therefore the Act is read to apply to the entire week. Please note that the period of time during which the filing of an initial claim that satisfies this requirement extends through the life of the TEUC program if the claimant had a benefit year on file as of the week of March 15, 2001.

b. *Determining Exhaustees.*

(1) *In General.* For an individual to be deemed to have exhausted benefit rights to regular compensation with respect to an applicable benefit year for purposes of meeting the first TEUC eligibility criterion, the individual must have either:

—the individual must have received all regular compensation payable based on employment and/or wages during the applicable base period; or

—the individual's rights to regular compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed;

(2) *Special Rules for Determining an Exhaustee for TEUC Purposes.* An individual shall be deemed to have received all regular benefits available during the applicable benefit year or payable according to the monetary determination, even though:

(A) as a result of an appeal concerning wages or employment or both which were not included in the original monetary determination, the individual may subsequently be determined to have entitlement to more or less compensation;

(B) the individual may be denied benefits under a state law seasonality provision, but who has entitlement to future weeks in the off season;

(C) after having established a benefit year during such year his/her wage credits were canceled or the right to regular or extended compensation was

totally reduced as the result of a disqualification;

(D) the individual has not exhausted AB;

(E) the individual is precluded from establishing a subsequent benefit year or qualifying for benefits in a subsequent benefit year by reason of state law requalifying provisions that require earnings after the beginning of the first benefit year;

Note that an individual who has no rights to benefits in cases involving the failure to meet requalifying requirements ceases to be an exhaustee when the requalifying earnings requirement is met and regular compensation is payable in a new benefit year. When regular compensation becomes payable, the individual is no longer entitled to TEUC.

c. *Applicability of State Law Provisions.* Under section 202(d)(2) of the Act, state law provisions of the applicable state that apply to the payment and continuing eligibility for regular compensation apply to the payment of TEUC except for the EB "20 weeks of work" requirement discussed in paragraph d. below.

An individual is not entitled to receive TEUC for a week to which a disqualification would apply but for the fact that the individual has exhausted all rights to regular compensation.

For example, an individual is disqualified for voluntary leaving until the individual earns six times the WBA. The individual's benefit year has ended and the individual has insufficient earnings to establish a new benefit year and, therefore, files a TEUC claim. Until this individual satisfies the requalification requirement imposed during the benefit year of the regular claim, the individual is not eligible to receive TEUC.

d. *Applicability of EB Provisions.* Section 202(d)(2)(A) of the Act requires an individual to have 20 weeks of full-time insured employment or the equivalent insured wages, as determined under "the provisions of the state law implementing section 202(a)(5)" of the Federal-State Extended Unemployment Compensation Act (EUCA) of 1970. The equivalent in insured wages under EUCA equals: 40 times the individual's most recent weekly benefit amount, or 1 and 1/2 times the individual's high quarter insured wages.

To determine which of these earnings requirements the state may use to determine if the claimant has a qualifying applicable benefit year for TEUC, the state must consult "the provisions of state law implementing

section 202(a)(5)." Thus, for example, if the state law authorizes the use of just one of the three requirements, the state may only use that single requirement for TEUC purposes. If the state law authorizes the use of two alternatives, then the state may use the two alternatives and if the state law authorizes the use of all three alternatives, then all three alternatives may be used.

The suitable work and work search requirements of section 202(a)(3) of the EUCA of 1970 do not apply to the TEUC program. Neither do the subsequent employment provisions of section 202(a)(4) of the EUCA of 1970.

e. *Effect of Other UI-Related Programs on Eligibility for TEUC.*

(1) *Trade Readjustment Allowances (TRA).* The maximum amount of TEUC payable to an individual who is also entitled to TRA shall not be reduced by reason of TRA entitlement. However, under section 233(a)(1) of the Trade Act of 1974, the individual's entitlement to TEUC will reduce the individual's maximum amount of "basic" TRA payable if the TEUC is payable during the UI benefit period established by or in effect at the time of the individual's first TRA qualifying separation under the applicable trade adjustment assistance certification issued by this Department. (For the definition of "benefit period," see 20 CFR 617.3(h).) If the TEUC entitlement occurs during a UI benefit period subsequent to the one in which the individual's first TRA qualifying separation occurred, the maximum amount of "basic" TRA payable will not be reduced by the amount of TEUC entitlement. In either case, however, the individual is not eligible for TRA until TEUC entitlement is exhausted.

The provisions of section 233(d) of the Trade Act of 1974 (relating to reduction of EB entitlement because of the receipt of TRA in the most recent benefit year) are not applicable to determinations of entitlement to TEUC.

(2) *Disaster Unemployment Assistance (DUA).* An individual is not eligible for DUA with respect to a week of unemployment under section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177) if the individual is eligible to receive TEUC for that week.

6. *Establishment of TEUC Account.* Section 203 of the Act requires the state to establish a TEUC account for each eligible individual. There is no restriction on the total amount of TEUC and regular compensation that is payable. Each program stands alone.

a. *TEUC Maximum Benefit Amount (MBA).* The MBA in the individual's

account will be equal to the lesser of 50 percent of the total amount of regular benefits (including dependents' allowances) or 13 times the average regular compensation WBA (including dependents' allowances) payable to the individual with respect to the "applicable benefit year" for TEUC purposes. In states with a regular duration in excess of 26 weeks, the individual will be entitled to an MBA equal to 13 times the average WBA, including dependents' allowance.

If a redetermination or an appeal decision results in a determination that an individual is entitled to more or less regular compensation, the individual's status as an exhaustee must be redetermined, as appropriate, and an appropriate change shall be made in the individual's TEUC account.

b. TEUC Second-Tier (TEUC-X).

Individuals in some states may be eligible for a second tier of TEUC depending on when they exhaust their initial TEUC entitlement. Specifically, individuals who exhaust their initial TEUC entitlement in an EB period will qualify for TEUC-X in an amount equal to the original TEUC entitlement. The same terms and conditions applicable to the payment of the initial TEUC entitlement also apply to TEUC-X.

TEUC-X may also be payable in some states where EB has not triggered on. Section 203(d)(2)(B) of the Act provides that a state will be treated as being in an EB period if section 203(d) of the EUCA of 1970, which sets the 5 percent insured unemployment rate trigger, contained a 4 percent trigger. All requirements for an EB period using a 5 percent IUR must also be met under the 4 percent trigger, including the 120 percent "lookback" provision, the 13-week minimum "on" period, and the 13-week minimum "off" period if the state dips below the required trigger. The beginning date of a state's 4 percent TEUC EB period will be based on when the state would have triggered "on" using such a trigger. For example, if a state would have triggered on EB for the week beginning March 3 using the 4 percent trigger, the state will remain on for a TEUC EB period for at least 13 weeks from that date.

The Department will provide regular notices to states of which states qualify for TEUC second tier, and the beginning and ending dates of the 4 percent TEUC EB period during which TEUC-X is payable. See the reporting instructions for the ETA 539 in Section VI of this document.

7. TEUC Weekly Benefit Amount.

a. Total Unemployment. The WBA payable to an individual for a week of total unemployment is equal to the

individual's most recent regular WBA including dependents' allowance for the "applicable benefit year."

b. Partial and Part-Total

Unemployment. To determine the amount payable for a week of partial or part-total unemployment, the state will calculate the payment amount in accordance with the state law applicable to such a week of unemployment.

8. Record Maintenance and Disposal of Records. The state will maintain TEUC claims and payment data (including data on eligibility, disqualification and appeals) as required by the Employment and Training Administration (ETA).

a. Record Maintenance. Each state will maintain records pertaining to the administration of the TEUC program, and will make all such records available for inspection, examination, and audit by such federal officials or employees as the Secretary of Labor or ETA may designate or as may be required by the law.

b. Disposal of Records. The electronic/paper records created in the administration of the TEUC program shall be maintained by the state for 3 years after final action (including appeals or court action) on the claim, or for less than the 3-year period if copied by micro photocopy or by an electronic imaging method. At the end of the 3 year period, the TEUC records are transferred to state accountability under the conditions for the disposal of records that apply to UCFE and UCX records as explained in Chapter XXII of ET Handbook No. 391 (1992 Edition) and Chapter I, Page I-15, of ET Handbook No. 384 (1984 Edition).

9. Disclosure of Information. Information in records made and maintained by the state agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation, and the entitlement of individuals thereto, may be disclosed under the applicable state law. This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the requests for information or reports from U.S. Department of Labor, or to information, reports and studies with no individual identifiers, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a) or regulations of the U.S. Department of Labor promulgated thereunder.

10. Inviolate Rights to TEUC. Except as specifically provided in these

instructions, the rights of individuals to TEUC shall be protected in the same manner and to the same extent as the rights of persons to regular compensation are protected under the applicable state law. Such measures must include protection of claimants for TEUC from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to TEUC. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for and receiving TEUC.

Section IV—Processing Claims for TEUC

1. Applicability of State Law

Provisions. Under section 202(d)(2) of the Act, except where inconsistent with the Act, the terms and conditions of the state unemployment compensation law which are applicable to claims for and payment of regular compensation, apply to claims for, and payment of, TEUC. The provisions of the applicable state law apply to claims for TEUC include but are not limited to:

- a. Claim Filing and Reporting;
- b. Information to individuals, as appropriate;
- c. Notices to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to TEUC;
- d. Determinations, redeterminations, appeals, and hearings;
- e. Disqualification, including disqualifying income provisions;
- f. Ability to work and availability for work;
- g. The Interstate Benefit Payment Plan; and
- h. The Interstate Arrangement for Combining Employment and Wages.

2. Claims for TEUC.

a. Intrastate Initial Claims. An initial claim for TEUC shall be filed by an individual according to the applicable state's manual, remote or electronic filing procedures.

b. Interstate Initial Claims. Interstate TEUC claims are filed on the same forms and in the same manner as all other interstate initial claims against the liable state. Before accepting an initial TEUC claim, the agent or liable state, whichever is taking the claim, must review the individual's work history, examine potential entitlement and advise the individual of all filing options. If the individual has sufficient employment and wages to establish a new benefit year under any state or federal program, including the combined wage arrangement, no right to file under the TEUC program exists.

When an initial TEUC claim is filed through the agent state, the state will:

(1) Complete an Initial Interstate Claim, Form IB-1, check claim type "other" and identify as TEUC;

(2) Review the individual's work history and advise the individual of all filing options;

(3) Transmit a TC-IB1 to the liable state.

c. *Intrastate and Interstate Weeks Claimed.* Claims for payments of TEUC for weeks of unemployment shall be filed at the same times and in the same manner as claims for regular compensation are filed under the applicable state law, and on forms or following electronic filing procedures as furnished to the individual by the state agency.

d. *Combined Wage Claims.* TEUC shall be payable to individuals filing under the Interstate Arrangement for Combining Employment and Wages (CWC) in the same manner and to the same extent that benefits are payable to other intrastate or interstate claimants.

Administrative, entitlement and eligibility requirements provided in this document also apply to claims filed under the CWC program, except where clearly inconsistent with combined wage (and interstate, when applicable) procedures, policies and rules.

When a TEUC determination or redetermination is issued on a CWC claim, no Report of Determination of Combined-Wage Claim, TC-IB5, will be issued to the transferring state. The paying state will not bill transferring states for TEUC. The paying state will charge all TEUC benefits paid on CWC claims directly to the EUCAL account in accordance with the fiscal instructions provided in Section V.

3. *Secretary's Standard.* The procedures for reporting and filing claims for TEUC shall be consistent with these instructions and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (*Employment Security Manual*, Part V, sections 5000 *et seq.*).

4. *Determination of Entitlement: Notices to Individual.*

a. *Determination of Initial Claim.* The state agency shall promptly, upon the filing of an initial claim for TEUC, determine whether the individual is eligible and, if the individual is found to be eligible, the weekly and maximum amounts of TEUC payable to the individual. The individual must be issued an appealable determination.

b. *Determination of Weekly Claims.* The state agency shall promptly, upon the filing of a claim for a payment of TEUC for a week of unemployment,

determine whether the individual is entitled to a payment of TEUC for such week, and, if entitled, the amount of TEUC to which the individual is entitled to and issue a prompt payment.

c. *Redetermination.* The provisions of the applicable state law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable state law shall apply to determinations pertaining to TEUC.

d. *Notices to Individual.* The state agency shall give notice in writing to the individual of any determination or redetermination of an initial claim and all weekly claims. Each notice shall include such information regarding the right to reconsideration or appeal, or both, as is furnished with written notices of determinations and redeterminations with respect to claims for regular compensation. The state agency must also provide the following notice to all claimants filing an initial claim for TEUC:

Notice: Under 18 U.S.C. 1001, knowingly and willfully concealing a material fact by any trick, scheme, or device or knowingly making a false statement in connection with this claim is a Federal Offense, punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

e. *Promptness.* Full payment of TEUC when due shall be made with the greatest promptness that is administratively feasible.

f. *Secretary's Determination Standard.* The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming TEUC shall be consistent with the Secretary's "Standard for Claim Determinations—Separation Information" (*Employment Security Manual*, Part V, sections 6010 *et seq.*)

5. *Appeal and Hearing*

a. *Applicable State Law.* The provisions of the applicable state law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to TEUC.

b. *Rights of Appeal and Fair Hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to claims for TEUC shall be consistent with these instructions and with sections 303(a)(1) and 303(a)(3) of the Social Security Act (SSA) (42 U.S.C. 503(a)(1) and 503(a)(3)).

c. *Promptness of Appeals Decisions.*

(1) Decisions on appeals under the TEUC Program shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in 20 CFR part 650.

(2) Any provision of an applicable state law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving entitlement to TEUC.

6. *Fraud and Overpayment.* The Act contains specific provisions with respect to fraud and overpayments of TEUC. Provisions of the state law applied to detection and prevention of fraudulent overpayments of TEUC will be, as a minimum, commensurate with those applied by the state with respect to regular compensation and which are consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual*, Part V, Sections 7510 *et seq.*).

a. *Fraudulent Claiming of TEUC.* Section 206 of the Act provides that, if an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure the individual has received an amount of TEUC to which the individual was not entitled, the individual:

(1) shall be ineligible for further TEUC in accordance with the provisions of the applicable state unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

(2) shall be subject to prosecution under section 1001 of Title 18, U.S.C.

Provisions of state law relating to disqualification for fraudulently claiming or receiving a payment of compensation shall apply to claims for and payment of TEUC.

When a state has sufficient facts to make a prima facie case under 18 U.S.C. 1001, it will consider referral for criminal prosecution in accordance with the provisions of the Memorandum of Understanding (MOU) between the Department of Labor's Office of Inspector General (USDOL-OIG) and the Employment and Training Administration, which was transmitted as an attachment to UIPL No. 10-87 (also see UIPL No. 16-85 and UIPL No. 21-90).

States should pursue TEUC fraud cases in the same way all other state and federal claims are handled. At this time,

states should refer only multi-state or multi-claimant cases to the USDOL-OIG for prosecution. If the state believes that federal prosecution is warranted, the state will refer the case to the appropriate Regional Office of the USDOL-OIG.

For those cases not referred to the OIG for investigation and prosecution or if the OIG does not accept the case for investigation, or if it is accepted, but is later returned because the U.S. Attorney declines prosecution, the state should refer the case for prosecution under state law provisions.

b. *Overpayments.* Under section 206(b) of the Act each state shall require repayment from individuals who have received any payment of TEUC to which they are not entitled (whether fraudulent or non-fraudulent), unless the state, under the optional language of section 206(b), elects to waive recovery. The option to waive recovery only applies to non-fraudulent overpayments.

(1) *Application of State Waiver Provision.* If the state has a state law waiver provision for regular compensation, the state provision may be applied to non-fraudulent TEUC overpayments if the provision requires the state to determine that—

- The payment of such TEUC was without fault on the part of the individual, and
- Such repayment would be contrary to equity and good conscience.

In making these determinations, the state shall apply the same standards as are applied in making such determinations with respect to the waiver of overpayments of regular compensation.

(2) *Optional TEUC Waiver.* Any state that does not have a state waiver provision or does not have a state waiver provision that meets both the “fault” and “equity and good conscience” requirements stated in (1) above may adopt this optional TEUC waiver. If the state elects to implement the optional TEUC waiver, it may not do so until it has issued agency operating instructions for staff to follow.

(A) The state may waive recovery of a non-fraudulent TEUC overpayment if it determines that—

- The payment of such TEUC was without fault on the part of the individual, and
- Such repayment would be contrary to equity and good conscience.

(B) In determining whether fault exists, the following factors must be considered:

- Whether a material statement or representation was made by the

individual in connection with the application for TEUC that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

- Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for TEUC that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.
- Whether the individual knew or could have been expected to know that the individual was not entitled to the TEUC payment.
- Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any act or omission of the individual or of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(C) In determining whether equity and good conscience exists, the following factors may be considered:

- Whether the overpayment was the result of a decision on appeal;
- Whether the state agency had given notice to the individual that the individual may be required to repay the benefit payment in the event of a reversal of the eligibility determination on appeal; or
- Whether recovery of the overpayment will cause financial hardship to the individual.

(3) *Recovery of Overpayments.*

Section 206(c)(2) of the Act specifically requires that no repayment of a TEUC overpayment may be required, and no deduction may be made, until a determination has been issued and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final. When the determination requiring repayment is issued, the state shall restore the full amount of the recoverable overpayment to the individual's TEUC available account balance.

(A) Unless a TEUC overpayment is otherwise recovered, or is waived, the state shall, during the three-year period after the date the individual received the payment of TEUC to which the individual was not entitled, recover the overpayment by deductions from any sums payable to the individual under any federal unemployment compensation law administered by the state or any other federal law administered by the state which provides for the payment of any

assistance or an allowance with respect to unemployment.

(B) To the extent permitted under state law, a TEUC overpayment may be recovered by offset, except that: (1) no single offset may exceed 50 percent of the amount otherwise payable to the individual for the week; and (2) offset of benefits payable is limited to the three-year period following the date that the claimant received the improper payment(s).

(C) At the end of the three-year period, the state may remove the overpayment from its accounting record. Although no further active collection efforts by the state are required, the state shall maintain an administrative record during the subsequent three-year period to provide for possible collection. After the subsequent three-year period (a total of six years from the date the claimant received the improper payment(s)), the state may dispose of the overpayment record.

(D) TEUC overpayment recovery shall be enforced by any action or proceeding which may be brought under state or federal law, unless recovery of the overpayment is waived or prohibited in accordance with the Act and the instructions in this section.

(E) Overpayments of TEUC recovered in any manner shall be deposited into the fund from which payment was made.

(F) If a state has an agreement in effect with the Secretary to implement the cross-program offset provisions of section 303(g)(2) of the SSA, TEUC payments shall be used to offset state compensation overpayments, and state compensation payments shall be used to offset TEUC overpayments. If the state does not have an agreement with the Secretary under section 303(g)(2), SSA, the state *must not* use TEUC to offset a state compensation overpayment, but *may* under section 303(g)(1), SSA, offset state compensation payments to recover TEUC overpayments.

(G) If a state has the cross-program offset agreement and an Interstate Reciprocal Overpayment Recovery Arrangement in effect with the National Association of State Workforce Agencies, TEUC payments may be used to offset state compensation overpayments for other states that also have both agreements in effect. If the other state does not have an agreement with the Secretary under section 303(g)(2), SSA, TEUC benefits may only be used to offset overpayments of *federal* benefits for such state.

Section V—Fiscal Instructions

1. *Payment to States.* Under section 204 of the Act each state that has

entered into an agreement to pay TEUC will be paid an amount equal to 100 percent of the amount of TEUC paid to individuals by the state under the agreement and in full accordance with the Act and these instructions.

a. *Requesting TEUC Benefit Funds.* States will request funds from the Extended Unemployment Compensation Account (EUCA) to pay all TEUC benefits attributable to all claim types (UI, UCFE, and UCX). Drawdown procedures are not changed all requests go through the Automated Standard Application for Payments (ASAP) system. Drawdown requests must adhere to the funding mechanism stipulated in the Treasury-State Agreement executed under the Cash Management Improvement Act of 1990. Requests will be funded in the same manner as all ASAP transactions elected by the states (FEDWIRE or ACH to the state benefit payment account). See paragraph 3. in this section for specific instructions.

Benefits paid to former employees of state and local governments, "501(c)(3)" nonprofit organizations and federally recognized Indian tribes are funded from U.S. Treasury general revenues through the EUCA. This does not affect the process for requesting funds, but does affect the reporting of those benefits on the ETA 2112. States are to report all TEUC payments, including reimbursable, UCFE/X on line 39, column F. (Note that it does not matter whether these employers have elected reimbursement status.) See the reporting instructions in Section VI for details.

b. *TEUC Administrative Funds.* Section 205(c) of the Act appropriated funds from the Employment Security Administration Account (ESAA) in the Unemployment Trust Fund, to pay costs related to the administration of the TEUC agreement. Section 205(c) also authorizes the Secretary to determine each state's share of the amount appropriated according to the factors described in section 302(a) of the Social Security Act (42 U.S.C. 501(a)). States will receive TEUC administrative funds through the contingency entitlement process. (See Section VI, Paragraph 2.h.)

2. TEUC Reporting Instructions.

a. *Obligational Authority.* The Grant Officer will assign a separate line on the UI program notices of obligational authority for TEUC grant funds, and a separate sub-account for TEUC will be set up in the Payment Management System for SWAs to draw down TEUC administrative funds.

b. *Administrative Fund Accounting.* Because of the separate appropriation for TEUC administrative funds and the availability of these funds until

expended, SWAs must track and report TEUC administrative expenditures and obligations separately from the regular UI program. Therefore, SWAs should establish a separate fund ledger and must submit a separate SF 269 for the TEUC program. SWAs should include any TEUC administrative expenditures and obligations incurred in March 2002 in their June 30, 2002, TEUC SF 269 report.

c. *Time Distribution.* To ensure that regular UI and TEUC costs are tracked separately, SWAs should charge time used for all TEUC activities to the appropriate UI functional activity codes as outlined in Appendix E to ET Handbook No. 410) under the separate TEUC fund ledger; however, SWAs should combine regular and TEUC staff year usage data in Section A of the UI-3 worksheet.

d. Accounting for TEUC Payments (Benefits).

(1) TEUC advances to the states' UTF accounts, and disbursements for TEUC benefit payments will be reported on the monthly ETA 2112. Do not use a separate form for this report. (See Section VI, Reporting Instructions.) Accurate reporting of advances, reimbursements and payments is important due to the monthly reconciliation of balances with OWS records; balances are subject to constant congressional and public inquiries.

(2) Since TEUC paid to UCFE and UCX will be funded out of General Revenues, the Federal Employees Compensation (FEC) Account will not be used to pay TEUC benefits. Therefore, federal agencies will not be required to reimburse the Unemployment Trust Fund for TEUC paid to federal employees. The ETA 191 report and UCFE/UCX detailed claimant data provided by states to Federal agencies must exclude TEUC.

3. *Drawdown Instructions for TEUC.* Beginning on March 15, 2002, there will be one or more new lines in the Automated Standard Application for Payments System (ASAP) for making drawdowns to pay TEUC benefits. The line(s) are clearly labeled TEUC and may be broken down by type of payment for former employees of contributory employers, UCFE/X, or reimbursable and special contributory employers. The Bureau of Public Debt, managers of the UTF, will immediately inform state users of the ASAP of any modifications to screens or drawdown instructions.

a. *Processing Refunds.* There are two scenarios for returning funds to these program lines. The most likely scenario will be when the state has funds in their state UI account and they need to return

those funds. This should be completed as a negative amount posted to the appropriate line in ASAP. To accomplish this, the total draw for the day in ASAP must be greater than the negative balance posted to the appropriate line.

The second scenario is when a state actually has the funds in its federal UI account that are required to be returned to the appropriate program line. This should be accomplished by the state processing a book transfer transaction that accomplishes a transfer from its UI account to the appropriate program under the EUCA account.

Section VI—Reporting Instructions

1. *General.* The TEUC program reports, ETA 207, ETA 218, ETA 227, ETA 5130 and ETA 5159 should be submitted electronically by utilizing separate TEUC entry screens that are available through the UI Required Reports electronic reporting system. These reports will mirror the reports required for the regular Federal-State Extended Benefits program. TEUC activity should also be reported on the ETA 2112, ETA 539 and UI-3 as specified below in section 2. Unless otherwise noted, definitions of items will follow definitions in the regular program as specified in ETA Handbook 401, 3rd Edition. Due dates will be the same as the regular versions of reports.

Reporting will begin with the first reporting period in which the effective date of the TEUC program falls. Reporting for all Reports except the ETA 2112 will continue for twelve full months or four full quarters after the last payable week of the TEUC program. For those reporting periods in this post-TEUC time frame, only reports, which have non-zero data, need be submitted. Reporting on the ETA 2112 should continue for as long as there is activity.

2. Data Items to be Reported.

a. *ETA 207.* Report column 1, Total Determinations and Redeterminations, for lines 101 through 106. Report also lines 201 and 202, columns 7 through 10; and lines 301 and 302, columns 11, 12, 14, and 17.

b. *ETA 218.* Report line 100, columns 1 through 3.

c. *ETA 227.* Report Section A, Overpayments Established, lines 101 and 103, for columns 2 through 5. Also report all of Section C, Recovery/Reconciliation, excluding lines 303–307, columns 11–14.

d. *ETA 5130.* Report all data elements.

e. *ETA 5159.* For Section A Claims Activities, report initial claims information for columns 2 through 5 and column 7 for lines 101 through 103. Report eligibility reviews and continued

weeks claimed activity for columns 8 through 12 for lines 201 through 203. The claims information needed for column 11 for lines 201 through 203 will be identified as entitlement type "code 2" (Federal Benefit Extension) in field number 28 on the Interstate Liable-Agent Data Transactions (LADT). For Section B, Payment Activities, report columns 14, 15, 17, 18, and 19 for lines 301 through 302 and columns 21 and columns 24 through 28 for line 303.

(1) *First Payments*. Report the first payment under TEUC program. Do not report the first payment after TEUC-X augmentation as a first payment.

(2) *Final Payments*. A final payment is to be reported when a payment is issued that exhausts the benefit entitlement in the individual's TEUC account. When the state is in an EB period or a TEUC EB period, only payments that exhaust a TEUC account that has been augmented with TEUC-X is reported as a final payment.

f. *ETA 2112*. Regular activity should be reported in the aggregate on the electronic regular ETA 2112 report as usual. Information reflecting TEUC activity should be reported as follows:

Line 15. *Reed Act Distributions*. Include all Reed Act distributions to the state account in the UTF.

Line 16. *Intra-Account Transfer*. Include in line 16F the amount of TEUC funds transferred from the UTF to the state benefit payment account.

Line 23. *Federal Emergency Compensation*. Enter in columns C and E the amount of Federal funds received as advances or reimbursement for TEUC.

Lines 33, 34, 35. Enter total benefits paid, attributable to state and local governments, "501(c)(3)" nonprofits, and Indian tribes, as appropriate, on the appropriate line for the type of employer, excluding TEUC benefits.

Line 36. *FECA Net Federal Benefits—UCX*. Enter in columns C and F the net Federal portion of unemployment compensation paid to former members of the armed services, excluding TEUC. The total payments should be adjusted for refunds deposited during the month, credits and recharges, and cancellations and reissuances.

Line 39. *Federal Emergency Compensation*. Enter in columns C and F the net amount for which the federal government is liable for TEUC, including Unemployment Compensation for Former Federal Civilian Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX) and federal emergency programs. Include residual activity (e.g., overpayment recoveries) from expired emergency programs (e.g.,

Emergency Unemployment Compensation (EUC), Federal Supplemental Compensation (FSC), Federal Supplemental Benefits (FSB). Break out *all disbursements by program* in the "Comments" section as follows:

(1) *Regular*—TEUC benefits paid to former employees of contributory employers.

(2) *Reimbursable, Federal, and Special Contributory*—TEUC benefits paid to former employees of the federal government (UCFE and UCX), state and local government (contributory or non contributory) section 501(c)(3) employers (contributory or non contributory employers to which section 3309(a)(1) of the Internal Revenue Code applies), and Indian Tribes (contributory or non contributory).

(3) *Expired Program Transactions*—any residual activity for expired federal benefit extension programs, e.g., recoveries of EUC overpayments.

Line 41. *Reed Act Withdrawals*. Enter all Reed Act funds withdrawn from the state account in the UTF.

Line 43. *FECA Net Benefit Payments—UCFE*. Enter in columns C and F the net Federal portion of unemployment compensation paid to former federal civilian (including postal) employees, excluding TEUC. The total payments should be adjusted for refunds deposited during the month, credits and recharges, and cancellations and reissuances.

Line 50. *Withholding*. States are to report gross benefits in column F regardless whether amounts of withholding transferred to the IRS goes through the state benefit payment account. See ETA Handbook 401, 3rd Edition, for specific instructions. *Line 16 F must equal Line 44E*.

g. *ETA 539. Total weeks claimed for State, UCFE, and UCX* under the TEUC program for the report period will be reported in the comments section and labeled as "TEUC" followed by the number. For example: "TEUC=239". (The agent weeks claimed information needed for this report will be obtained from the LADT identified in field 28 as "code 2", Federal Benefit Extension.)

h. *UI-3 Worksheet*. Report TEUC claims activity/workload activity electronically on the lines for third tier programs on the regular UI-3 report.

3. *Notification of a TEUC EB Trigger*. States with a TEUC agreement with the Secretary may already have triggered or may trigger a TEUC EB period under the requirements of section 203(c) of the Act. A letter from the governor or appropriate state official declaring that the state has triggered either on or off the TEUC EB period based on the 4 percent IUR is required in the same

manner as for an EB period under EUCA.

States with a 4 percent IUR as of enactment of the TEUC Act should immediately declare a TEUC EB period indicating a beginning date in accordance with the requirements of 20 CFR 615.12. Send letter to: Ms. Grace Kilbane, Office of Workforce Security, 200 Constitution Avenue, NW., Room S-4231, Washington, DC 20210.

Any paper reports should be faxed to 202-693-3229 instead of mailing. The cover sheet should indicate delivery to UI Required Reports.

4. *OMB Approval*. The information collection effort described in these reporting instructions has been approved by the Office of Management and Budget (OMB) under OMB Approval No. 1205-0433, expiration date—11/30/2002. However, as indicated in Section VI.1, OMB approval is being sought for extension through 12/31/2003. ETA will notify states upon OMB approval of action.

Section VII—Questions and Answers for Clarification of Title II of Public Law 107-147

1. Administrative

a. *Question*: When is the agreement between the state and the Department of Labor effective? Is it effective with the date the state authorizing official signs the document or are both signatures required?

Answer: The agreement takes effect after enactment and both parties have signed. TEUC is payable beginning the following week.

b. *Question*: What is the first week payable for TEUC?

Answer: The first week payable is the first week which begins after the state enters into a TEUC agreement.

c. *Question*: What is the official name of the federal extension?

Answer: Temporary Extended Unemployment Compensation (TEUC).

d. *Question*: How will states know which states are in a TEUC EB period under the 4 percent trigger?

Answer: The Office of Workforce Security will issue a separate TEUC trigger notice identifying the states where second-tier (TEUC-X) is payable.

e. *Question*: Does a state have to do anything special to declare that TEUC-X is payable under the state law based on the four (4) percent trigger?

Answer: Yes. As is the case with the EB program, the state must send a letter advising the department that it is triggering "on" or "off" a second-tier period. The information currently provided by the states on the ETA 539 report will be used to issue the TEUC trigger notices.

f. *Question:* When a TEUC EB period "OFF" indicator occurs, does the state discontinue payment of TEUC to individuals who have been determined eligible for TEUC-X benefits?

Answer: The ending of a TEUC EB period does not affect the payment of TEUC-X to individuals who established eligibility during the TEUC EB period. Section 203(c) provides that an individual's TEUC account shall be augmented by an amount equal to the original TEUC account if a TEUC EB period is in effect at the time of the original TEUC account exhaustion. It doesn't provide for termination of payments if the period triggers off. The ending of the TEUC EB period only affects determinations of entitlement to TEUC-X for new exhaustees. Individuals who exhaust benefits with a week of unemployment that ended after the TEUC EB period ended are not eligible for TEUC-X.

g. *Question:* For those states that currently have an insured unemployment rate of 4 percent or above, what is the beginning date of the TEUC EB period?

Answer: The beginning and ending of the TEUC EB Period is determined in the same manner as a regular EB period using a 4 percent insured unemployment rate (IUR) in place of 5 percent. Therefore, the TEUC EB Period begins with the third week that begins after the "ON" indicator and ends with the ending of the third week ending after the "OFF" indicator.

h. *Question:* If the state's IUR would cause the TEUC EB Period beginning date to precede the effective date of the TEUC agreement in a state, does the mandatory 13-week "ON" period begin with the earlier date or with the first week that begins after the agreement is in effect?

Answer: The mandatory 13-week "ON" period begins with the earlier date, because section 203(c) of the Act does not affect the normal calculation of when the period begins and ends.

i. *Question:* If state law requires a request for redetermination before appeal of a monetary determination, is state law followed for TEUC monetary appeals?

Answer: Yes. Section IV, 5.c. provide that the provisions of state law apply to determinations pertaining to TEUC.

j. *Question:* May an individual in continued claim status at the time of exhaustion be automatically switched to a TEUC claim without filing a TEUC initial claim?

Answer: No. A TEUC initial claim must be filed that meets the state's requirements for claims filing.

k. *Question:* May individuals be paid TEUC for weeks of unemployment prior to the effective date of the legislation?

Answer: No. TEUC is payable only for weeks of unemployment beginning after enactment of the TEUCA and the state's execution of a TEUC agreement with the Secretary of Labor.

l. *Question:* My state is in an EB period and has a TEUC agreement with the Secretary of Labor. If my state chooses to pay EB before TEUC, are we required to pay TEUC effective March 10, 2001, to individuals who have an applicable benefit year for TEUC, but not for EB?

Answer: Yes. The agreement requires the state to implement the TEUC program effective with the first week beginning after the agreement was executed for individuals who meet the requirements of section 202(b) of the TEUCA.

m. *Question:* My state is in an EB period and has a TEUC agreement with the Secretary of Labor. If my state chooses not to pay TEUC in lieu of EB, is my state prohibited from paying TEUC to an individual prior to the exhaustion of EB?

Answer: Yes. If the state does not exercise its option under section 202(e) of the TEUCA to pay TEUC in lieu of EB, the individual does not meet the requirements of section 202(b)(2) of the TEUCA until EB is exhausted.

2. Claimants Potentially Eligible for TEUC

a. *Question:* What is the universe of claimants who are potentially eligible for TEUC?

Answer: In addition to meeting state law eligibility requirements that are not inconsistent with the Act or operating instructions, any individual with a benefit year ending during the week of March 15, 2001 and thereafter who—

(1) has exhausted all rights to regular compensation;

(2) has no rights to regular or extended compensation under any state or Federal law;

(3) is not receiving compensation under the Canadian law; and who

(4) filed an initial claim (new or additional, including transitionals) for compensation during the week of or after March 15, 2001. (This condition may be met with the filing of an initial claim at any time up until the TEUC program ends.)

Example: The individual exhausted benefits with the week ending January 6, 2001, and his/her benefit year ended Saturday, June 2, 2001. The individual did not file an additional claim on that claim during or after the week that included March 15, 2001. If the individual files a new claim

for regular compensation between the week of March 15, 2001 and the end of the TEUC program and is determined monetarily ineligible, he/she is potentially eligible for TEUC.

b. *Question:* Are individuals who filed a new claim and established a benefit year or filed an additional claim on an existing benefit year, during or after the week of March 15, 2001, but received no payments before the benefit year ended potentially eligible for TEUC?

Answer: Yes, because the ending of the benefit year prevents the individual from receiving the regular benefit balance that was available. Therefore, the claimant is an exhaustee for TEUC purposes.

c. *Question:* For purposes of section 202(b)(4), TEUCA, are transitional claims considered initial claims?

Answer: Yes. See Section VII.2.a.(4) above.

d. *Question:* My state law provides that during an EB period, regular benefits in excess of 26 times the WBA (sharable regular) will be denied if the individual failed to purge a disqualifying separation through subsequent employment. Is this individual an exhaustee for TEUC purposes?

Answer: No. This individual is not an exhaustee because the individual has not "received all regular compensation payable" with respect to the benefit year and does not fall within the special rules for determining exhaustees. The fact that regular benefits in excess of 26 times the WBA are subject to EB eligibility requirements does not change the fact that they are regular benefits. However, when the benefit year ends, if the individual is not entitled to regular benefits on a new benefit year, the individual is an exhaustee. Additionally, since state law does not require that the separation disqualification be purged through subsequent work in order for the individual to qualify for regular benefits in a subsequent benefit year, it does not carry over to the TEUC claim.

e. *Question:* My state law provides that during an EB period, an individual must meet the EB work search requirements to qualify for regular benefits in excess of 26 times the WBA (sharable regular) and imposes the EB disqualification requiring subsequent employment to purge a disqualification. Is an individual who is held ineligible under the EB work search provision an exhaustee for TEUC purposes?

Answer: No. This individual is not an exhaustee for the same reasons described in question and answer 2.b. above. However, this individual is an

exhaustee after the end of the benefit year, if there is no entitlement to regular benefits on a new benefit year. The disqualification does not carry over to TEUC, if the state is paying TEUC in lieu of EB, because the EB work search requirement only applies to regular benefits in excess of 26 times the WBA and EB in accordance with 20 CFR 615.9(a).

f. *Question:* To be considered an "exhaustee," must a person have received all regular benefits, *i.e.*, must benefits actually have been paid on the parent claim?

Answer: No. See Section III.5(b).

g. *Question:* When an individual has only a monetarily ineligible claim on file showing a benefit year ending date during or after the week of March 15, 2001, and there is no record of an appeal, is this individual potentially eligible for TEUC?

Answer: No. Because the individual did not have sufficient employment and/or wages to establish monetary entitlement, there is no applicable benefit year with respect to which the individual exhausted all rights to regular compensation, as required by section 202(b)(1), TEUCA.

3. Applicable Benefit Year for TEUC Purposes

a. *Question:* Does an individual with a qualifying benefit year who is eligible for regular benefits on a subsequent benefit year have the option to receive TEUC based on the first benefit year?

Answer: No. An individual with existing entitlement to regular compensation is not an exhaustee for TEUC qualifying purposes.

b. *Question:* If an individual has two qualifying benefit years on file and has exhausted the subsequent benefit year, does the individual have the option to receive TEUC based on the first benefit year?

Answer: No. The most recently exhausted benefit year is the applicable benefit year for TEUC purposes under the definitions published in Section II.

c. *Question:* Does TEUC entitlement exist for an individual who received some TEUC before the end of his/her benefit year and who fails to qualify on a new benefit year because he/she has not earned requalifying wages?

Answer: Yes. Individuals who are unable to qualify for benefits on a subsequent benefit year because of a failure to meet the requalifying wage requirements and who otherwise meet the TEUC requirements will be eligible for TEUC. If the requalifying requirements are met, the individual will no longer meet the requirements for

TEUC eligibility because he/she would no longer be an exhaustee.

d. *Question:* When an individual who otherwise meets the eligibility requirements for TEUC has established a second benefit year and has had his/her wage credits canceled or the right to regular compensation *totally* reduced as the result of a disqualification, is the individual entitled to TEUC based on the prior benefit year?

Answer: No. The "applicable benefit year" for TEUC is the current benefit year where the disqualification has been imposed. The TEUC monetary is determined based on the regular benefit monetary determination prior to wage cancellation. However, any requalifying requirement imposed by the disqualification applies to TEUC eligibility.

e. *Question:* In some cases, due to the receipt of severance pay, an individual's eligibility for regular compensation may be postponed or reduced. This may result in no regular compensation being paid during the benefit year. Even though no benefits were ever actually paid, are these individuals considered to be "exhaustees?"

Answer: Yes. Section III.5(b).

4. Monetary Eligibility

a. *Question:* Is there a uniform 13-week duration for TEUC regardless of the regular claim maximum benefit amount (MBA)?

Answer: No. The TEUC MBA is computed as the lesser of 50 percent of the regular MBA, including dependents' allowance, or 13 times the average weekly benefit amount (WBA). Fifty percent of the regular MBA may result in less than 13 weeks of benefits.

b. *Question:* If there has been a recent increase in the state's WBA that applies to all benefit years on file with a balance, what impact does it have on the TEUC WBA and MBA?

Answer: The individual's TEUC WBA will be the most recent regular WBA payable applicable to the individual. The individual's MBA will represent the lesser of 50 percent of the total regular benefit MBA or 13 times the average of both WBAs paid during the benefit year.

c. *Question:* If an individual receives a monetary penalty on his/her regular claim, is the TEUC claim figured on the regular amount before or after the penalty (e.g., wage cancellation or reduction of the MBA)?

Answer: Before the penalty. Although section 203(b)(1) of the Act requires that the amount in the TEUC account equal the lesser of 50 percent of the regular benefits payable or 13 times the average WBA, the Department has consistently held that the determination of the monetary award for federally-financed

extensions should be based on the award prior to the application of the penalty because to base entitlement on the lesser redetermined amount would be tantamount to imposing a second penalty for the same disqualifying act. (Refer to 20 CFR 615.5(a)(1)(i) and (b)(3)).

d. *Question:* When a state is in a TEUC EB period, what individuals qualify for the TEUC-X monetary determination?

Answer: Under section 203(c)(1) of the Act, only those individuals who exhaust the first-tier TEUC during the TEUC EB period.

e. *Question:* Does an individual who exhausts tier-one TEUC prior to the TEUC EB period "on" indicator qualify for the second tier of TEUC?

Answer: No. A claimant who exhausts TEUC during an "off" indicator is not eligible for TEUC-X.

f. *Question:* May individuals who have their base period wage credits canceled or who have had their regular maximum benefit amount reduced to one week establish a TEUC claim? If "yes," what is the TEUC monetary based on?

Answer: Yes. The individual's TEUC account is based on the original monetary determination before wage cancellation or benefit reduction. See Section III.5(b)(2)(C). The rationale for this position is that the individual's loss of regular compensation is the penalty. To base TEUC entitlement on a lesser redetermined amount (such as one week) would be tantamount to imposing a second penalty for the same disqualifying act. Whether or not the individual is immediately eligible for TEUC depends on the requalifying requirements imposed by state law.

g. *Question:* If the calculation of the individual's TEUC monetary entitlement at 50 percent of regular monetary entitlement results in an amount (dollars and cents) requiring rounding, are state law rounding provisions followed?

Answer: Yes. States are to round up or down in accordance with their laws.

h. *Question:* My state's formula for determining the maximum benefit amount (MBA) for regular compensation is the lesser of 26 times the weekly benefit amount (WBA) or one-third of the base period wages credits. When an individual is unemployed due to a plant closing, my state pays up to 13 additional weeks of benefits by calculating the MBA payable for regular compensation plus the additional compensation as the lesser of 39 times the WBA or one-half of the base period wage credits. State law does not specifically define these benefits as

additional compensation. Are the plant closing benefits considered additional compensation for TEUC purposes?

Answer: Yes. These benefits meet the definition of "additional compensation" (commonly called additional benefits) as defined at 20 CFR 615.2(f) as benefits paid " * * * by reason of other special factors. * * *" As such, these benefits are excluded from use in the calculation of TEUC monetary entitlement and TEUC may be paid prior to these benefits. Section 202(b)(2), TEUCA, does not require, as a condition of TEUC eligibility, exhaustion of additional benefits.

5. Base Period Employment Requirement

a. *Question:* Section 202(d)(2)(A) of the Act requires that the claimant have 20 weeks of full-time insured work or the equivalent in insured wages in order to qualify for TEUC (and TEUC-X, since it is based on TEUC). Is this the same as is required for EB?

Answer: Yes. State law which satisfies the requirements of 202(a)(5) of the Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 satisfies this requirement.

b. *Question:* The individual's base period employment and wages meet the requirement of 20 weeks of full-time work or its equivalent. The state's formula for calculating the weekly benefit amount allows weeks with low earnings to be excluded in the determination of the individual's weekly benefit amount. Does this individual's base period employment and earnings meet the requirements of section 202(d)(2)(A), TEUCA?

Answer: Yes. Section 202(d)(2)(A), TEUCA requires the application of section 202(a)(5), EUCA, to the determination of TEUC entitlement. Section 202(a)(5), EUCA, requires an individual to have base period employment of 20 weeks of full-time work or its equivalent, as defined by state law, to qualify. It does not require all of the employment and wages to have been used in the determination of monetary entitlement of the applicable benefit year.

c. *Question:* The individual has covered employment and wages in more than one state. The individual has established a benefit year based on wages from state A only because the base period wages from state B do not increase the weekly or maximum benefit amount. Therefore, no combined wage claim was established and state A returned the wages to state B. May state A use the information from the TC-IB4 wage transfer, that it received from state B, as evidence of sufficient employment

and wages in the base period of its claim to satisfy the 20-weeks-of-full-time-work requirement or its equivalent for TEUC entitlement?

Answer: Yes. Section 202(a)(5) of EUCA requires an individual to have a specified amount of base period employment and wages to qualify. It does not require all of the employment and wages to have been used in the determination of monetary entitlement of the applicable benefit year.

d. *Question:* The individual has existing benefit years ending during or after the week of March 15, 2001, in more than one state. The applicable benefit year for TEUC is in state B. The employment and wages used in the monetary determination of the claim in state A meet the 20-weeks-of-work or equivalent requirement. The employment and wages used in the monetary determination of the TEUC "applicable benefit year" in state B do not meet the base period work requirement. May state B use information from state A, obtained via the Interstate Inquiry (IBIQ) or the combined wage program TC-IB4, to verify that the individual had sufficient out-of-state covered employment and wages in the base period of the claim in state B to satisfy the 20-weeks-of-work or equivalent requirement?

Answer: Yes. Section 202(a)(5) of EUCA requires an individual to have a specified amount of base period employment and wages to qualify. It does not require all of the employment and wages to have been used in the determination of monetary entitlement of the applicable benefit year.

6. Seasonal Provisions/Between Terms Denial

a. *Question:* Are employees of educational institutions who are denied regular benefits because of the between-and-within terms denial provisions eligible for TEUC?

Answer: No. Section 3304(a)(6)(A) of the Federal Unemployment Tax Act requires, as a condition of participation in the Federal-State Unemployment Compensation program, that state law prohibit, under specified circumstances, the payment of benefits based on professional services performed for educational institutions during such periods. Under section 202(d)(2) of the Act, the terms and conditions of the State law, except where inconsistent with the Act or operating instructions, apply to claims for TEUC. Therefore, the same between and within terms denial provisions of state law apply to TEUC claims.

b. *Question:* Under my state's seasonality provisions, all wage credits

in the base period are used to determine monetary eligibility. However, for a seasonal worker, benefits based on seasonal wages may be paid only during the normal seasonal period. Is a seasonal worker, with a combination of seasonal and non-seasonal base period employment, who has exhausted all non-seasonal benefits and is currently ineligible for benefits based on seasonal employment considered an "exhaustee" for TEUC purposes?

Answer: Yes. See Section III.5(b)(2)(B).

c. *Question:* Under my state's seasonality provisions, benefits based on seasonal wages may be paid only during the normal seasonal period for which the seasonal wage credits were earned. Is a seasonal worker, whose monetary determination is based solely on seasonal wages and who is ineligible because of the seasonality provisions, considered an "exhaustee" for TEUC purposes?

Answer: Yes. Section III.5(b)(2)(B)

7. TEUC EB Period Trigger

a. *Question:* Section 203(c)(2)(B) of the TEUC Act provides for using a modified section 203(d) of the EUCA to determine a state's TEUC EB period. Does section 203(f) of EUCA pertaining to the alternative total unemployment rate also apply and provide a higher TEUC MBA (i.e., 20 times WBA) during periods of a "High Unemployment Period"?

Answer: No. If a state is in a TEUC EB period when a claimant exhausts his/her first TEUC award, the claimant will receive another TEUC award equal to the first amount. Under TEUC, a claimant can potentially receive 26 weeks of benefits which is greater than the 20 week MBA payable during a "High Unemployment Period." Additionally, TEUC does not reduce EB entitlement. Therefore, if, a claimant has exhausted all TEUC or TEUC-X, and a state is in an EB period triggered under the provisions of section 202(d) of the Act, unmodified, or section 202(f) of EUCA, the claimant may qualify for EB.

b. *Question:* How are the TEUC-X EB period "on" and "off" dates determined?

Answer: The TEUC EB period triggers "on" and "off" in the same manner as an EB period under EUCA. The TEUC EB period begins with the third week beginning after the week for which there is an "on" indicator and it ends with the ending of the second week that begins after the week of the "off" indicator.

The TEUC Trigger notice shows all states that are in a TEUC EB period, which includes those in a regular EB period and those using the 4 percent

trigger. The 13-week minimum duration of the TEUC EB period began for some states based on the 4 percent trigger prior to the enactment of the TEUC Act because of the way the trigger functions. If a state's insured unemployment rate falls below 4 percent, the TEUC EB period will end consistent with the beginning date shown.

c. *Question:* Does the ending of the TEUC EB period result in the ending of TEUC-X payments in a state?

Answer: No. Once an individual has been determined entitled to TEUC-X, the benefits are available through the end of the TEUC program. Whether a state is in a TEUC-EB period only affects whether the individual is entitled to an account augmentation of TEUC-X.

d. *Question:* When an individual exhausts initial TEUC entitlement, what determines whether the balance in the individual's account is augmented by an amount equal to the amount of the initial TEUC maximum benefit amount?

Answer: If a TEUC-X EB period is in effect during the week of unemployment for which the final payment of initial TEUC entitlement is made, the individual's TEUC account is augmented by an amount equal to the amount of the initial TEUC MBA. When a state is not in a TEUC-X EB period during such week, the individual is not entitled to TEUC-X.

e. *Question:* When the balance in the individual's original TEUC account is less than the WBA and the individual qualifies for TEUC-X, is TEUC-X payable for that same week?

Answer: Yes. Section 203(c)(1), TEUCA, provides that, "if, at the time the individual's account is exhausted, such individual's state is in an extended benefit period * * *, then, *such account shall be augmented by an amount equal to the original amount.*" [Emphasis added.] This provision provides for automatic replenishment of the TEUC account upon exhaustion. As a result, TEUC-X is payable for the week of exhaustion. If the state can accomplish augmentation of the account after payment authorization, that reduces the TEUC balance to zero and before check writing, the TEUC payment and the TEUC-X adjustment may be issued in a single check.

8. Work Search/Job Service Registration Requirements

a. *Question:* Do the EB work search requirements apply to TEUC?

Answer: No. The work search requirements of the state law apply.

b. *Question:* Do state law provisions regarding able, available and actively seeking work apply to TEUC?

Answer: Yes. Under section 203(a)(2), TEUCA, "the terms and conditions of

the state law which apply to claims for regular compensation and the payment thereof" apply to TEUC.

c. *Question:* For TEUC claims, my state plans to electronically reactivate prior work registrations and require the same number of job contacts as on the parent claim. Are these procedures inconsistent with any federal requirements?

Answer: No. State law work search and employment service registration requirements apply to TEUC eligibility.

9. Adjudication of Issues Arising Subsequent to Exhaustion

a. *Question:* If an exhaustee with an existing benefit year was separated from employment after exhaustion and before the effective date of the TEUC program, is the state required to adjudicate the separation issue?

Answer: Yes.

b. *Question:* My state adjudicates all separations from the beginning of the base period to the time a claim is filed. Does this provision of state law apply to TEUC claims?

Answer: Yes. The state is expected to adjudicate all potentially disqualifying separations preceding and during the TEUC claim in accordance with state law applicable to claims for regular compensation.

10. TEUC Benefit Intercept

a. *Question:* Are TEUC payments subject to child support intercept and similar levies and attachments?

Answer: Yes. TEUC is an unemployment compensation program. As stated in 6.a. above, the terms and conditions of state law apply to TEUC, including intercepts and offsets, except where inconsistent with the Act or operating instructions.

b. *Question:* What is the order of priority for deductions of pension, overpayment offset, child support and income taxes?

Answer: The state will follow the same procedures that apply to regular compensation. The state will first determine the amount of UC that the individual is entitled to for a week. This means that receipt of deductible income, including retirement pay, will taken into account in determining the amount payable for the week. Next, the state must determine how much of the amount payable is to be deducted and withheld to satisfy overpayments, intercept child support, withholding of income taxes or other permissible purpose. The Department's position on the priority of withholding is stated in UIPL 17-95, Change 1:

* * * amounts required to be withheld under state law must be withheld prior to any voluntary

withholding requested by the claimants. The Department continues to leave to the state the matter of priorities among amounts that are required to be withheld.

As a result, any overpayments or child support required to be withheld must be withheld prior to any withholding of income taxes.

c. *Question:* May the state intercept and apply TEUC benefits to an established UI tax delinquency?

Answer: No. Refer to UIPL Nos. 25-89 and 45-89.

11. Overpayments

a. *Question:* Is the waiver of overpayment for equity and good conscience voluntary on the state's part or must the state have a program to consider equity and good conscience?

Answer: The waiver provision is voluntary on the part of the state.

b. *Question:* Does section 206(c)(2) of the Act prohibit the recovery of TEUC overpayments until the determination is final under state law?

Answer: Yes.

c. *Question:* May TEUC benefits be offset to recover state UI overpayments?

Answer: Yes, if the state has a Cross-program Overpayment Offset Agreement with the Secretary, TEUC may be offset to recover state UI overpayments.

d. *Question:* Must all offsets be 50 percent even if state law requires a 100% offset of benefits?

Answer: No. The Act provides that the 50% limit applies only to offsets to recover TEUC. It does not apply to offsets of TEUC to recover State UI overpayments. Section 303(g) of the Social Security Act (cross-program offsets) has no 50% limit.

e. *Question:* When state law does not contain an overpayment waiver provision, states may elect to waive non-fraudulent TEUC overpayments. Section IV.6.b.(2) lists the following three factors that *must* be considered in determining whether equity and good conscience exists. Whether: (1) The overpayment was the result of a decision on appeal; (2) the state gave notice that the individual may be required to repay the overpayment in the event of a reversal of the eligibility decision on appeal; and (3) whether recovery of the overpayment will cause financial hardship to the individual. Does this mean that a waiver may only be granted if all three conditions are met?

Answer: No, but each factor should be considered.

f. *Question:* During the Emergency Unemployment compensation program

during the early 1990s, states were advised to refer fraud cases to the USDOL Office of Inspector General (OIG) for prosecution under section 1001 of Title 18 USC. Those cases referred were not prosecuted under the federal statute and resulted in cases that could have been prosecuted under state law not being prosecuted because the statute of limitations expired before the state was notified that federal prosecutions would not be pursued. How is USDOL going to handle prosecution of TEUC fraud overpayment?

Answer: States should pursue TEUC fraud cases consistent with the way all other state and federal claims are handled. At this time, states should not refer individual cases to the USDOL-OIG. However, should the state suspect any multi-state or multi-claimant cases, these should be referred to the OIG.

g. *Question:* If an individual has been overpaid TEUC and the amount of the overpayment exceeds the amount remaining in the TEUC account, may the offset percentage exceed 50 percent?

Answer: No. The TEUCA provides that "no single deduction" to recover a TEUC overpayment "may exceed 50 percent of the weekly benefit amount from which the deduction is made."

h. *Question:* Section 206(b), TEUCA, allows a state to waive certain TEUC overpayments if it determines that the payment of TEUC was without fault on the part of the individual and repayment would be contrary to equity and good conscience. Section IV. 6.b.(1) states that, if the state law contains waiver provisions for regular compensation, the state provisions may be applied to TEUC. The instructions do not require that the waiver criteria of the state provisions must conform to the waiver criteria set forth in section 6.b.(2). Additionally, Questions and Answers, 11.a. references the "equity and good conscience" criteria in stating that applying a waiver is voluntary on the part of the state. Does this mean that the state is precluded from applying its state law waiver provision unless it conforms to the "equity and good conscience" requirements of section 206(b), TEUCA, and may only elect to apply the TEUC waiver criteria as provided Section IV.6.b.(2)?

Answer: No. A state is not precluded from applying its state law waiver provisions if they are, at a minimum, consistent with the requirements of section 206(b), TEUCA.

i. *Question:* Are states required to use only benefit offsets to recover TEUC overpayments?

Answer: No. A state is to use the full range of recovery tools applicable to

regular compensation. See Section IV.6.b.(3).

j. *Question:* When an individual has been overpaid TEUC, is the amount of the overpayment restored to the individual's TEUC account at the time the overpayment determination is issued or is it restored as it is recovered?

Answer: The full amount of the recoverable overpayment is restored to the individual's account at the time the determination is issued. As a result, an individual may have an outstanding TEUC overpayment and still be eligible for a weekly payment, subject to the offset to recover the overpayment, as appropriate.

k. *Question:* My state is considering adopting an administrative rule for waivers of TEUC overpayments. Section IV.6.b.(2)(C) sets out three factors which "shall be considered" by states in determining whether equity and good conscience exists. The first of these is "whether the overpayment was the result of a decision on appeal." Does this mean that if an overpayment is the result of a decision on appeal, that fact alone may be grounds for granting a waiver?

Answer: Yes. Even though the state should consider all of the factors, if the individual's situation meets only one, it may constitute grounds for waiver.

12. Short-Time Compensation Program

a. *Question:* May TEUC be paid to individuals participating in a short-time compensation (STC or worksharing) program?

Answer: Yes. Nothing in the Act prohibits such payments. If an individual participating in an STC program is an exhaustee for TEUC purposes and is otherwise eligible, TEUC can be paid to the individual. It should be noted that the payment of TEUC to STC participants is unlikely to occur since (1) STC exhaustions do not occur with a high frequency and (2) an individual participating in an STC program whose benefit year has ended will have wages that must be used to establish, if possible, a new benefit year before any TEUC is payable.

b. *Question:* Since my state limits an individual's participation in a STC program to 26 weeks, the individual could (1) continue to work the reduced work week under the STC plan, (2) be ineligible for STC, and (3) have a balance remaining on the regular claim. Is this person an exhaustee for TEUC purposes? If so, do we determine the amount payable each week using STC criteria or regular criteria? How is the individual's TEUC MBA calculated?

Answer: This individual is an exhaustee for TEUC purposes because,

even though a balance may remain on the claim, the individual has no rights to regular compensation. If the individual continues to work a reduced work week as provided under the STC plan, then TEUC is to be paid under the state law's terms and conditions pertaining to STC. However, if the individual no longer works the reduced work week under the STC plan, then the state's STC requirements will no longer be applicable and eligibility requirements for regular compensation apply. As a result, if a balance remains on the regular claim, the individual is no longer an exhaustee for TEUC purposes. The TEUC MBA is based on the MBA of regular compensation payable to the individual during the benefit year, even if the STC plan limits the amount payable during the STC plan, since the claimant could be laid off and be entitled to the total balance.

c. *Question:* When regular benefits are paid to individuals participating in a "work-sharing program," the criteria for earnings deductions is based on a percentage of the earnings instead of deducting earnings on a dollar-for-dollar basis as we do with regular claims. Does the STC deduction criteria apply to TEUC? If "yes," does the state law provision that limits the number of weeks payable also apply to TEUC work-sharing benefits?

Answer: Yes, to both questions. As stated in b. above, TEUC is to be paid under the state law's terms and conditions pertaining to STC.

13. Extensions for Approved Training

a. *Question:* If a state has a special extension for individuals who exhaust regular compensation and are participating in approved training, may TEUC be paid to these individuals?

Answer: Yes. For purposes of TEUC, these extended programs are considered additional benefits. Under the Act, TEUC is payable prior to any such additional benefits, because, under section 202(b)(2) of the Act, exhaustion of additional benefits is not required to qualify for TEUC.

14. Self-Employment Assistance

a. *Question:* May TEUC be paid to individuals participating in a self-employment assistance (SEA) program?

Answer: No. SEA is payable to individuals "in lieu of" regular UC section 3306(t)(1) of the Federal Unemployment Tax Act), which means they have not, in effect, exhausted regular compensation. As explained in UIPL 14-94, individuals who have exhausted regular UC are ineligible for SEA allowances. Individuals may not receive SEA allowances in lieu of

Federal-State extended benefits (EB), additional benefits (AB) entirely financed by the state, any wholly funded Federal extension of UC, or other types of compensation not meeting the definition of regular UC.

However, if the individual has been terminated from or voluntarily left the SEA program, and if otherwise eligible, the individual may be paid TEUC since the individual is an exhaustee for TEUC qualifying purposes.

b. *Question:* The response to question 14.a. states that an individual may not receive SEA allowance in lieu of any unemployment compensation except regular compensation. It also states that if an individual is terminated or voluntarily left the SEA program the individual may qualify for TEUC as an exhaustee. Does this mean that an individual may qualify for TEUC if the state officially terminates an individual's participation in the SEA program or an individual withdraws solely for purposes of removing a barrier to qualifying for TEUC?

Answer: Section 3306(t)(6), FUTA, provides that a state SEA program must meet such "requirements as the Secretary of Labor determines to be appropriate." Further, the purpose of the SEA program is to "help speed the transition" of workers "back into the work force." (H. R. Rep. No. 361, Part 1, 103rd Cong. 1st Sess. 94 (1993), quoted in UIPL No. 14-94.) Therefore, consistent with the FUTA requirements, the state may, on its own motion, terminate an individual from its SEA program if the individual's efforts to establish himself/herself in self-employment have failed. However, it may not terminate an individual simply to qualify that individual for TEUC.

With respect to an individual withdrawing from a SEA program solely to qualify for TEUC: The same terms and conditions that apply to regular compensation apply to the payment of TEUC. Therefore, if an individual leaves the SEA program by abandoning self-employment, the state, to determine TEUC eligibility, will need to determine whether the individual meets state law eligibility requirements for regular compensation. Under state law it may be, for example, that the leaving of the self-employment (especially if the only reason given is to collect TEUC) itself is cause for ineligibility.

c. *Question:* Do individuals who apply for admittance into the SEA program for the first time need to be notified that their participation will cause them to be ineligible for TEUC?

Answer: No. The goal of the SEA program is that an individual will successfully develop the ability to work

in self-employment. It is not necessary to advise new entrants that TEUC (or EB or any other benefit extensions) would not be available if this goal is successfully attained. If the goal of self-employment is not realized and the individual would otherwise be eligible under state law, the individual may be eligible for TEUC.

15. TEUC Effect on Trade Readjustment Assistance (TRA)

a. *Question:* How does entitlement to TEUC affect the payment of basic TRA?

Answer: During the first benefit period (See 20 CFR 20 617.3(h)) following the qualifying separation, a claimant is potentially entitled to 52 weeks of basic TRA minus regular, additional and extended compensation (including federally financed extensions). Therefore, entitlement to TEUC will reduce the basic TRA entitlement. In most cases, the application of this requirement will result in a worker receiving 26 weeks of regular benefits, followed by 13 weeks of TEUC, followed by 13 weeks of basic TRA for a total of 52 weeks of benefits. However, if the state is in an EB period, including one based on the substitution of "4" for "5" provided for in section 203(d)(1)(B) of EUCA, the claimant's basic TRA may be further reduced by the second tier of TEUC.

b. *Question:* This state has a large number of claimants covered by TRA petitions. Some of the claimants have exhausted their regular benefits and are currently receiving TRA payments. Does the state have to set up TRA overpayments and go back and start these persons in TEUC and exhaust that prior to going to TRA?

Answer: No. However, starting with the first week which begins after the state has a TEUC agreement, the state must suspend the payment of TRA until TEUC is exhausted and TEUC is deductible from TRA entitlement, as explained in 15.a. Further, the receipt of TRA will not reduce the TEUC MBA, because section 233(d) of the Trade Act (relating to the reduction of EB entitlement because of the receipt of TRA) does not apply to TEUC.

c. *Question:* An individual exhausted regular benefits and has received 5 weeks of TRA. The individual meets the eligibility requirements for TEUC and the current week claimed began after the state's TEUC agreement became effective. Should this claimant continue to be paid TRA until exhaustion before being paid TEUC?

Answer: No. Entitlement to TEUC requires that TRA be suspended. Upon exhaustion of TEUC the claimant may be entitled to resume TRA. For example,

in this case, the claimant has received 26 weeks of regular benefits and 5 weeks of basic TRA. If the claimant is only eligible for 13 weeks of TEUC, upon exhaustion he/she may resume receiving the remaining basic TRA payable, in this case 8 weeks. The total basic TRA payable is 52 weeks minus regular and extended benefits, including federally financed extensions.

d. *Question:* The claimant has exhausted 26 weeks of regular benefits plus 26 weeks of basic TRA for a total of 52 weeks of basic TRA minus 26 weeks of regular benefits. The claimant otherwise meets the eligibility requirements for TEUC. Is this individual eligible for TEUC?

Answer: Yes, if the individual meets all the TEUC eligibility requirements. See operating instructions. TRA reduces EB entitlement but not TEUC entitlement.

e. *Question:* The claimant exhausted 26 weeks of regular benefits on a first claim and received 10 weeks of TRA. The claimant qualified for a second benefit year, therefore, the payment of TRA was suspended. The claimant has now exhausted all benefits available on the second claim and meets the requirements for TEUC. After exhaustion of TEUC, are TRA benefits payable?

f. *Answer:* Yes, if the claimant meets all the TRA eligibility requirements. The claimant will have a TRA balance of 16 weeks. The TRA entitlement is not reduced by the amount of TEUC because the TEUC is not attributable to the first benefit period.

g. *Question:* If TEUC is payable before TRA, will the length of the basic TRA eligibility period or the additional TRA eligibility period be lengthened?

Answer: No. TEUC entitlement has no effect on the determination of the period of eligibility for TRA established under section 233(a)(2) of the Trade Act.

h. *Question:* If a state mistakenly pays TRA instead of TEUC, may the state make a bookkeeping adjustment to correct the funding source instead of establishing a TRA overpayment, paying the individual TEUC for the same week(s), and recovering the TRA overpayment at 50 percent of the TEUC weekly benefit?

Answer: Yes; the benefits paid were mischaracterized.

i. *Question:* If an individual with an applicable benefit year for TEUC purposes is in training and is receiving up to 26 weeks of "additional" TRA, must TEUC be paid before additional TRA?

Answer: Yes. Entitlement to TEUC requires suspension of additional TRA the same as regular TRA. After

exhaustion of TEUC, the individual may resume eligibility for additional weeks of TRA, provided the fixed 26-consecutive weeks period for additional TRA has not elapsed. Additional TRA may not be paid beyond the fixed 26-consecutive weeks period.

j. *Question:* An individual has received 26 weeks of regular benefits and 22 weeks of basic TRA prior to March 10, 2002. TRA payments are suspended and the individual receives 13 weeks of TEUC. Does a TRA overpayment exist because the combination of regular, TRA and TEUC exceed 52 weeks of benefits?

Answer: No. Receipt of TEUC does not reduce the individual's TRA entitlement that was payable prior to the weeks of unemployment for which TEUC was payable. In this case, the individual was entitled to 52 weeks of TRA less any unemployment compensation received. At the time of the TEUC application, the individual had received a total of 48 weeks (26 UI and 22 out of 26 TRA). TRA was suspended and the individual received 13 weeks of TEUC. The remaining balance of four weeks of basic TRA is reduced to zero by the TEUC payment made for the weeks of unemployment for which TRA would have been payable in the absence of TEUC.

Additionally, TRA does not reduce TEUC entitlement as section 233(d) of the Trade Act only relates to a reduction of Federal-State Extended Benefits (EB) entitlement, not TEUC.

k. *Question:* Section III.5.(e)(1) states that TEUC will reduce the "maximum amount of basic TRA payable * * *"; does this mean that states will have to issue a monetary redetermination of the basic TRA entitlement, or is there a special required notice to current TRA individuals when TRA is reduced by receipt of TEUC?

Answer: TRA claimants must be provided with an appeal-able determination that reduces or eliminates the balance of basic TRA payable by an amount equal to TEUC paid or payable for weeks of unemployment prior to the exhaustion of basic TRA entitlement.

l. *Question:* If an individual has received 26 weeks of UI and 26 weeks of basic TRA, is the individual entitled to TEUC, if otherwise eligible?

Answer: Yes. TRA is not deductible from TEUC. Therefore, TEUC is payable to the individual if all other eligibility requirements are met. TEUC does not retroactively cause the overpayment of basic TRA paid for weeks prior to weeks for which TEUC is payable.

m. *Question:* If an individual that has been in training for the past year has received 26 weeks of regular benefits, 26

weeks of basic TRA and 13 weeks of TEUC, is the individual entitled to 26 weeks of Additional TRA?

Answer: No. Although TEUC is not deductible from Additional TRA, the fixed 26 consecutive week period for which Additional TRA is payable begins upon the exhaustion of basic TRA. Therefore, the individual is only entitled to Additional TRA for the weeks remaining in the fixed 26 consecutive week eligibility period.

n. *Question:* When an individual starts training after receiving 26 weeks of regular benefits, 26 weeks of basic TRA and 13 weeks of TEUC, is the individual entitled to 26 weeks of Additional TRA?

Answer: Yes. TEUC is not deductible from Additional TRA and the fixed 26 consecutive week period for which Additional TRA is payable begins with the week that the training begins.

16. Reporting Requirements

a. *Question:* How will TEUC claims and benefit activity be reported?

Answer: See the reporting instructions in Section VI.

b. *Question:* Does the reference to entitlement type "code 2" for reporting on the ETA 5159 relate to the identification and reporting of nonmonetary determinations.

Answer: No. This code identifies TEUC data, in field 28 as federal benefit extension, on the Liable-Agent Data Transactions (LADT) which is the record for the weekly interstate data exchange.

c. *Question:* Do TEUC and TEUC-X benefit activity have to be reported separately?

Answer: No. There is a single TEUC program.

d. *Question:* When an individual exhausts TEUC first tier and qualifies for TEUC second tier, is the exhaustion of the first tier reported on the TEUC ETA 5159?

Answer: No. Exhaustion of the initial TEUC monetary award is not a reportable exhaustion if the individual meets the requirements to receive TEUC-X. Therefore, when the state is in a TEUC-X period, only final payments that exhaust TEUC-X are reportable.

e. *Question:* Is a separate SF-269 required for reporting TEUC administrative costs? If yes, when is the first report due?

Answer: Yes. However, no SF-269 report will be required for the quarter ending March 31, 2002. The first report for TEUC is due after the end of the June 30, 2002, quarter. That report will cover the period March 9, 2002, through June 30, 2002.

f. *Question:* How will states be reimbursed for administrative costs for the quarter ending March 31, 2002?

Answer: Administrative costs for the quarter ending March 31, 2002, will be reimbursed after receipt of a modified UI-3 (Quarterly UI Contingency Report). Because of the large increase in workload, advances for TEUC administration for the June 2002 quarter are available. Instructions will be issued soon.

g. *Question:* Are the ETA-2112 reporting requirements in UIPL No. 17-02, Implementation and Operating Instructions, Section VI being changed? If yes, what are the revised requirements?

Answer: Yes, the reporting requirements are being changed. All TEUC benefits will be reported on Line 39 of the ETA 2112. TEUC payments to former employees of reimbursable employers will not be reported on Lines 33, 34 and 35. TEUC UCFE and UCX payments will not be reported on Lines 36 and 43. In the "comments" section, the amount reported on Line 39 should be broken out on three lines as follows:

(1) *Regular*—TEUC benefits paid to former employees of contributory employers.

(2) *Reimbursable, Federal, and Special Contributory*—TEUC benefits paid to former employees of the federal government (UCFE and UCX), state and local government (contributory or non contributory) Section 501(c)(3) employers (contributory or non contributory employers to which Section 3309(a)(1) of the Internal Revenue Code applies), and Indian Tribes (contributory or non contributory).

(3) *Expired Program Transactions*—any residual activity for expired federal benefit extension programs, e.g., recoveries of EUC overpayments.

17. Interstate Benefits/Combined Wage/ICON Applications

a. *Question:* For combined wage claims, are paying states required to prepare and transmit a Report on Determination of Combined-Wage Claim, TC-IB5 and a Statement of Benefits Paid to Combined-Wage Individuals, TC-IB6, to transferring states on TEUC claims?

Answer: No. Paying states are to charge all TEUC payments to the EUC account. No TC-IB5s or TC-IB6s are to be sent to the transferring states.

b. *Question:* Under interstate and combined wage procedures, when an individual is indefinitely disqualified under state A's law and has sufficient employment and wages to qualify under state B's law, the individual is allowed

to file against state B. When an individual has existing benefit years ending during or after the weeks of March 15, 2001, in state A and state B and is indefinitely disqualified in state B, does the individual have the option of filing TEUC using the claim in state A?

Answer: No. Only the claim in state B meets the definition of an “applicable benefit year” for TEUC purposes. (See Section II, Item 4.)

c. *Question:* Under EB rules, when the liable state is in an EB period, an individual residing in an agent state that is not in an EB period is eligible for only two weeks of EB payments. When the liable state elects to pay EB before TEUC, are the individuals filing from agent states that are not in an EB period or Canada considered exhaustees for TEUC purposes after the two weeks of EB have been paid?

Answer: The two-week limitation found in Section 202(c), EUCA, does not apply to claims filed from Canada. If the state has elected to pay EB before TEUC, EB is payable to individuals filing from Canada if they are otherwise eligible. When an individual filing from Canada

becomes an exhaustee, the individual will qualify for TEUC if all other qualifying requirements are satisfied.

With respect to an individual filing from an agent state that is not in a regular EB period, that individual is an exhaustee for TEUC purposes after the two weeks of EB are paid. If the individual relocates to a state (agent or liable) that is in a regular EB period and EB is again payable, the individual ceases to be an exhaustee for TEUC purposes.

18. Claims Filed by Aliens

a. *Question:* If an alien was eligible for UI on a regular claim, is the alien automatically eligible for TEUC?

Answer: No. To qualify for TEUC, the individual must be a citizen, a non-citizen national, or a “qualified alien.” “Qualified alien” status must be verified through procedures of the state agency as applied to other federal unemployment compensation programs.

19. Application of Worker Profiling and Reemployment Services (WPRS) to TEUC Individuals

a. *Question:* Are individuals filing for TEUC subject to selection and/or

services under the Worker Profiling and Reemployment Services (WPRS) program?

Answer: No. TEUC individuals do not have to be profiled; only individuals filing new claims for regular compensation must be profiled.

20. TEUC Eligibility for Individual Filing From Canada

a. *Question:* May individuals filing from Canada qualify for TEUC?

Answer: Yes. (See Q & A 17.c. above.)

21. TEUC and Benefit Accuracy Measurement (BAM) Sampling

a. *Question:* Are TEUC claims included in the BAM survey population?

Answer: No. TEUC weeks claimed or paid are not included in the BAM paid claims or denied claims samples. Refer to BAM State Operations Handbook, ET Handbook No. 395, Chapter III, pp. 12–15.

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Federal Register

**Friday,
September 6, 2002**

Part III

Nuclear Regulatory Commission

**10 CFR Chapter 1
Electronic Maintenance and Submission
of Information; Final Rule and Proposed
Rule**

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

RIN 3150-AF61

Electronic Maintenance and Submission of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its rules to clarify when and how licensees and other members of the public may use electronic means such as CD-ROM and e-mail to communicate with the agency. These amendments are necessary to implement the Government Paperwork Elimination Act (GPEA). At the same time that the NRC is amending its rules, it is also making available for comment, guidance on how to submit documents to the agency electronically. When this direct final rule becomes effective, this new guidance document, which is appended to this rule, will supersede earlier guidance on electronic submissions.

DATES: The final rule will become effective on December 5, 2002, unless significant adverse comments on the amendments are received by October 21, 2002. If the rule is withdrawn as a result of such comments, timely notice will be published in the **Federal Register**. Comments received after October 21, 2002 will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. The NRC staff will hold a public meeting to answer questions on issues arising from this action on October 3, 2002.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Comments may also be submitted via the NRC's interactive rulemaking Web site at <http://ruleforum.llnl.gov>. This site permits a commenter to upload comments as files (most formats) if the commenter's Web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905, CAG@nrc.gov.

Copies of comments received may be examined at the NRC Public Document Room (PDR), One White Flint North, First Floor, 11555 Rockville Pike,

Rockville, Maryland, or by contacting the PDR by phone at (301) 415-4737 or 1-800-397-4209. Comments received may also be viewed and downloaded electronically via the interactive rulemaking Web site. Comments will also be available electronically for public inspection in the Publicly Available Records System (PARS) Library component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC's Web site at <http://www.nrc.gov> by selecting "Documents in ADAMS" from the index. If you do not have access to ADAMS, or if you have difficulty accessing the documents in ADAMS, contact the NRC PDR reference staff by phone at 1-800-397-4209 or (301) 415-4737, or by e-mail to pdr@nrc.gov. The guidance the agency is issuing as an appendix to this direct final rule is available at the NRC's Web site, at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, at the main NRC address, given under the **ADDRESSES** heading above.

The public meeting will be held in the auditorium at NRC Headquarters, Two White Flint North, 11545 Rockville, MD, beginning at 8:30 a.m. and ending about 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: John A. Skoczylas, (301) 415-7186, EIE@nrc.gov; or Brenda J. Shelton, (301) 415-7233, bjs1@nrc.gov.

SUPPLEMENTARY INFORMATION:

- I. The Direct Final Rule Process
- II. Background
- III. Action
- IV. Section-by-Section Analysis
- V. Plain Language
- VI. Voluntary Consensus Standards
- VII. Environmental Impact: Categorical Exclusion
- VIII. Paperwork Reduction Act Statement
- IX. Regulatory Analysis
- X. Regulatory Flexibility Analysis
- XI. Backfit Analysis
- XII. Congressional Review

I. The Direct Final Rule Process

This rulemaking has the simple aim of conforming the NRC's regulations to the GPEA by removing from the regulations language that states or suggests an unnecessary prohibition of electronic submission of documents to the agency. Because the NRC believes that this action should not cause controversy, the NRC is using the direct final rule process for this rule. The amendments in this rule will become effective on December 5, 2002. However, if the NRC receives significant adverse comments

on this direct final rule by October 21, 2002, the NRC will publish a document that withdraws this action. In that event, the comments received in response to these amendments would then be considered as comments on the companion proposed rule published elsewhere in this **Federal Register**, and the comments will be addressed in a later final rule based on that proposed rule. Unless the modifications to the proposed rule are significant enough to require that it be republished as a proposed rule, the NRC will not initiate a second comment period on this action.

II. Background

Title XVII of Pub. L. 105-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, enacted October 21, 1998, contains provisions known as the Government Paperwork Elimination Act (GPEA), sections 1701 *et seq.*, codified at 44 U.S.C. 3504, note. The GPEA requires, among other things, that by October 21, 2003, all Federal agencies provide persons with business before that agency the option of electronically maintaining, submitting, or disclosing information, where "practicable." By that same October 2003 date, the agencies must also accept electronic signatures. The Act's provisions seek mainly to take advantage of advances in modern technology in order to lessen the paperwork burden on those who deal with the Federal government.

Well before the passage of the GPEA, the NRC had taken major steps to increase the use of electronic communication. For example, many of the agency's regulations on recordkeeping have long permitted storage in electronic format. After the GPEA became law, the NRC moved quickly to meet the Act's requirements. In June 1999, the agency began testing a system that permitted holders of operating licenses for nuclear power reactors and the vendors that supplied them to make electronic submissions to the agency in a secure manner. On several occasions, the NRC held public meetings with licensees, vendors, and others to describe and demonstrate its Electronic Information Exchange (EIE) capability.

As a result of this pilot program, on January 26, 2001, the NRC issued Regulatory Issue Summary (RIS) 2001-05, "Guidance on Submitting Documents to the NRC by Electronic Information Exchange or on CD-ROM," which informs all part 50 applicants and licensees that they have the option of submitting documents to the NRC over the Internet by the EIE process or on CD-ROM under procedures spelled

out in the RIS. The RIS does not cover electronic submissions under regulations other than those in Part 50. However, on August 10, 2001, the agency issued a letter to certain fuel cycle facilities that extends to them the option of electronic submissions in many circumstances.¹ Nonetheless, these two documents do not cover other materials licensees or members of the general public.

III. Action

This rulemaking expands participation in electronic submissions by affording all licensees, vendors, applicants, and members of the public the option, where practicable, of submitting documents to the NRC in an electronic format, for example on CD-ROM, by e-mail, or through a special Web-based interface such as the NRC's Electronic Information Exchange. Electronic submission of documents to the NRC remains strictly voluntary; paper documents remain an acceptable form of submission.

Under the amendments in this rule, when an electronic submission is made in a medium other than CD-ROM, only one copy need be submitted to meet the requirements of the regulations, and no paper copy need accompany the electronic submission. However, the amendments in this rule will continue to require multiple copies of paper submissions. Moreover, if a person chooses to submit electronically a document on CD-ROM, the person must submit the same number of CD-ROMs as the number of paper copies required by the regulations, and the CD-ROMs should be accompanied by one signed paper copy.

The guidance that is appended to this rule indicates that a signed paper copy must be included with documents submitted on CD-ROM to avoid sharp increases in NRC's reproduction costs. Large documents submitted on CD-ROM typically contain engineering drawings, other graphics, and color, often intermixed with text. Some of the material is oversized and cannot be viewed easily on standard-sized monitors. Moreover, NRC's experience in using existing technology to produce paper copies of CD-ROMs has proven to be labor intensive and cost prohibitive. Individual files on the CD must be identified as to type, printed out on the printers appropriate to each type—for example, oversize engineering drawings must be printed on specialized

equipment—and then reassembled into one correctly ordered document. Until there is technology that allows the NRC staff to produce paper copies of CDs on a single machine, or view drawings on a large enough screen, it is not practicable for the staff to eliminate the need for a paper copy of submissions on CD-ROM. The paper copy allows the NRC to rapidly produce the number of copies sufficient to conduct its business and to make the document available to the public. The NRC believes that having the submitter supply a paper copy is cost effective because a paper copy can be generated at minimal expense when the document is created, but the paper copy can be generated only at considerable expense when it is produced from another medium through a conversion process. This slight increase in costs for the submitter is at least partially offset by avoiding the increase in the NRC's overhead costs, and thus in the fees charged to licensees and applicants, that would result if the NRC produced paper copies from CD-ROM.

Documents submitted via EIE, without special attributes such as 3D images, do not pose the same printing concerns. Thus, paper copies are not required for these documents.

Documents with special attributes, may be submitted on paper or CD-ROM (with a paper copy) but may not be submitted via EIE. See the guidance document, presented as an appendix to this direct final rule for details.

In considering the question of whether a CD-ROM must be accompanied by a paper copy, we have encountered the first of several questions about what is "practicable" to do electronically. The GPEA requires that agencies accept electronic submissions only when it is "practicable" to do so, but the statute does not define the term "practicable." However, the term tends to acquire meaning in concrete circumstances, in, for example, considering whether the state of technology enables us to dispense entirely with paper copies of applications. The NRC has also had to consider, among other questions, to what extent sensitive information could be protected in electronic submissions, whether such submissions could serve the needs of immediate notification, and whether the agency was prepared to make all of its outgoing communications electronic. In each of these cases, as will be discussed further below, the agency has concluded that electronic submissions are not yet always "practicable," because use of electronic submission in these other situations can entail disproportionate costs in time,

labor, and other resources, and sometimes can even delay doing something that needs to be done quickly. If one aim of the GPEA is to reduce the cost of government, then, when the use of electronic forms of submission adds to that cost, the use of those processes are, at least for the time being, not "practicable."

What is practicable in a given situation can change quickly because the underlying technology changes quickly. Under these continually changing circumstances, the NRC does not want to write certain technologies into its regulations. Therefore, the technologically driven details of how to make electronic submissions to the NRC are laid out in the guidance document that is appended to this rule for public comment. The guidance document will be updated as necessary to reflect new technology and agency experience. The guidance discusses, among other topics, the formats the NRC is prepared to accept, the use of electronic signatures, and the treatment of nonpublic information. Most of the amendments made by this rule take the limited approach of letting readers of the regulations know that the option of electronic submission is available in many cases, and that readers should consult the agency's guidance on electronic submissions.

When this direct final rule takes effect, the new guidance document will supersede both of the existing guidance documents on electronic submissions—the Regulatory Issue Summary 2001–05, which was directed toward Part 50 applicants and licensees, and the August 10, 2001, letter, which was directed toward certain fuel cycle facilities.

Few of the NRC's regulations on communications explicitly rule out electronic communications. Thus it has not proven difficult to remove regulatory text that impedes electronic communications in circumstances where electronic communications would be practicable. In searching our regulations, we found only one regulation—§ 50.4(c)—that explicitly requires submission of paper. Many of our regulations require written, or written and signed, communications. These requirements need not be changed because electronic communications certainly are "written" and we have in place technology for electronic signatures.

We have not had to propose amendments to our regulations on maintenance of records. A great many of these already explicitly permit the use of electronic means to maintain records, and those that do not explicitly permit

¹ Last fall, the NRC also issued guidance on managing quality assurance records in electronic media. See RIS 2000–18, October 23, 2002, available at the NRC's Web site.

electronic maintenance of records do not in any way imply that electronic strategies for preservation are disallowed.

Thus, our amendments are confined largely to regulations that imply that electronic means of communication are prohibited. The typical regulation of this sort says that communications under a certain part of our regulations must be by mail or delivery in person. By appearing to be exhaustive, the regulation may be read to imply that electronic communication is prohibited. We have amended almost all of these or similar provisions, leaving in place only those regulations that dictate telephonic or similar communications when circumstances demand, as, for example, when a licensee must notify the agency immediately of a radiological overexposure or an accidental release of radioactive material.

These amendments and the guidance document appended to this direct final rule do not address the submission of documents in hearings under the NRC regulations in 10 CFR part 2 and other parts that govern hearings. The use of electronic submissions in Federal litigation is being widely discussed, and this rulemaking is not intended to resolve issues of when and how to use electronic submissions during hearings. Separate rules or guidance addressing procedures for electronic communications in hearings will be issued in the future for public comment, but it should be noted that the document format standards outlined in the attached guidance document subsequently may be determined to apply to documents submitted to agency adjudicatory dockets. It is conceivable that, as a result of a future rulemaking proceeding, the current format requirements in 10 CFR part 2, subpart J, for example, could be superseded by the document format standards presented in this guidance document. Accordingly, interested parties should consider the impact the approach outlined in this guidance could have on their preparation of materials for future submission. For at least the near future, parties in hearings must follow the requirements presiding officers establish for submissions.

This direct final rule applies only to communications from licensees, applicants, vendors who are required to submit documents to the NRC, external entities (Federal, state and local governments) and other members of the public to the NRC, but the GPEA is usually read to apply also to communications from Federal agencies to the public. Though the NRC is working to comply with this aspect of

the GPEA also, it is not yet practicable for the agency to send all of its communications to licensees and other members of the public by means of electronic submissions. Moreover, the agency must take into account that not all persons who are interested in its work have access to electronic communication. Nonetheless, the NRC posts a large amount of information on its external Web site, including significant agency communications, and makes the information publicly available via ADAMS.

IV. Section-by-Section Analysis

Well over 100 of our regulations are being amended by this direct final rule. However, we are making only a very few kinds of changes, and so an analysis of each and every amended section would be highly repetitious and, more important, would obscure the aims and forms of the amendments. Therefore, rather than describe each amended section, we will describe only the few kinds of changes we are making and why we are making them.

Many of the kinds of changes are adequately represented by the proposed changes to sections of part 30.

(1) The changes to § 30.6, "Communications," are examples of the most important kind of amendment in this rule. Section 30.6 and its analogues in other parts of the NRC's regulations have typically said that communications are to be mailed or delivered by hand to the agency or one of its regional offices. The amended section makes clear that the current list of options is not exhaustive, and that electronic communications are permitted where "practicable." The amendment refers readers to guidance for answers to questions about what is practicable and how electronic submissions are to be made. The NRC has developed a guidance document that provides specific information concerning electronic submissions. This guidance document appears as an appendix to this direct final rule. Please note that the guidance document will not be codified in the Code of Federal Regulations.

A variation on § 30.6 requires that paper submissions be on a "page-replacement" basis or that an envelope be marked a certain way. See, for example, § 72.70(c) and § 9.67. We have also amended these regulations to make clear that an electronic option is available on a full replacement basis.

The amendment of § 30.6 illustrates a general principle we have followed throughout the amendments, namely, that the amended regulations should contain no less information than the previous regulations. We had

considered saving time and reducing printed regulatory text by leaving existing communications regulations unchanged and simply adding to Chapter I of Title 10 of the Code of Federal Regulations a single new regulation on communications, applicable to communications under every part of the NRC's regulations. This regulation would have said that, with certain exceptions, the electronic option was available, notwithstanding what any other NRC communications regulation said. However, regulations on communications then would have contradicted each other, and readers of one of the other parts could have been misled by the part they were reading into thinking that communications had to be by mail or delivery in person. Thus, to avoid inconsistencies and to ensure that the new regulations contain as much information as the old ones, we have revised any section that, because it mentioned only one or two options for communications, implied that the electronic option was ruled out. Thus, we have been led to amend § 30.6 in several places.

(2) The amendments to § 30.50(c), "Reporting requirements," and § 30.55(c), "Tritium reports," are instances of a second major class of amendment in this direct final rule. The sections amended by this class typically required two or three kinds of notification to the NRC—a more or less immediate notification by phone or sometimes telefax or telegram of an incident, a pending shipment, or other time-sensitive matter; then a followup report several hours later, again by phone, telefax, or telegram; and finally, several days later, a written report to the appropriate office director. Section 30.50 requires all three kinds of reports. Generally speaking, we have not added an electronic option for the first two kinds of reports, because the aims of these required reports are best served by consistently stable, rapid, and fully interactive means of communications. Electronic Information Exchange communications may not yet consistently meet these needs. E-mail delivery times, for example, can still be measured in days sometimes, and even "instant messaging" does not always permit the same facility of information exchange and discussion that the telephone permits. Thus, we have concluded that, at the present time, electronic communication of short-term reports is not yet "practicable." We will revisit these requirements as the technology advances. Nonetheless, the amendments in this direct final rule add the electronic option for communicating

written followup reports required by §§ 30.50 and 30.55, and their analogues.

(3) The amendment to § 30.7(e)(3) is an example of a third class of amendment that is less important than the two that have already been discussed. Several regulations require that a licensee or applicant acquire a copy of an NRC form, either for posting at the licensee's facility (as in the case of § 30.7), for filling out and sending to the NRC to apply for a license, or to meet a reporting requirement. These regulations typically say that the form may be acquired by writing to a certain address or by calling a certain number. The amendments to these sections add that the forms may be acquired by visiting the NRC's Web site.

In addition, we have also reduced copy requirements throughout the regulations. For example, § 51.66 previously required submittal of 25 copies of the Environmental Report and retention of an additional 125 copies for later distribution. The submittal requirement is now being reduced to 5 copies, and instead of being required to retain copies, an applicant will be required to maintain the capability to generate additional copies as directed.

The rule text also makes a number of other minor, administrative changes, such as changes in phone numbers and street and e-mail addresses.

V. Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing," directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

VI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is not adopting any technical standard. It is simply helping to ensure, through a rulemaking, that the agency will be in timely compliance with the requirement in the Government Paperwork Elimination Act, Pub. L. 105-277, that Federal agencies allow electronic submissions of information where practicable. Thus, no showing of compliance with the NTTAA is necessary here.

VII. Environmental Impact: Categorical Exclusion

The NRC has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2), because this action seeks non-policy, procedural changes to the NRC's regulations. Moreover, because of the broad nature of this action and the number of the NRC's regulations affected, several other categorical exclusions apply to this rule, including 10 CFR 51.22(c)(1), and (3)(i)-(iii). Also, 10 CFR 51.22(c)(16) applies to the guidance being issued in connection with this rule, and to the rule itself. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for these changes to the regulations. Because of its procedural nature, this action does not raise environmental justice concerns.

VIII. Paperwork Reduction Act Statement

The Office of Management and Budget (OMB) has determined that, because this direct final rule provides the option of collecting information by use of electronic means, but does not amend the existing information collections to which the rule pertains, OMB's review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 and following) are not required.

IX. Regulatory Analysis

A regulatory analysis has not been prepared for this rulemaking. The amendments below will neither impose nor relax new safety requirements and, thus, do not call for the sort of safety/cost analysis described in the agency's regulatory analysis guidelines in NUREG/BR-0058. Moreover, the NRC is required by the Government Paperwork Elimination Act, Pub. L. 105-277 (44 U.S.C. 3505, note), to allow electronic submissions where practicable, and the direct final rule does simply that. Thus, an analysis of costs and benefits could not alter a decision to implement the policy embodied in this rule. However, the NRC believes that the rule will afford all persons who deal with the agency greater flexibility in choosing the format of many of their communications and, thus, will allow them to choose less costly alternatives, often reducing the current costs of their communications with the NRC.

X. Regulatory Flexibility Analysis

In accordance with Section 605(b) of the Regulatory Flexibility Act (Title 5, Chapter 6 of the U.S. Code), the Commission certifies that this rule does not have a significant economic impact

on a substantial number of small entities. Therefore, in accordance with Section 605(b), the NRC is not preparing a regulatory flexibility analysis. The rule will in fact apply to the many small entities that are among the NRC's licensees, but it will impose no new burdens on those small entities. To the contrary, as noted in the regulatory analysis section of this notice, the agency's expectation is that the rule should reduce burdens.

The NRC invites comment on this certification. The agency is also providing the certification to the Chief Counsel for Advocacy of the SBA, in accordance with Section 605 of the Regulatory Flexibility Act.

XI. Backfit Analysis

The NRC has determined that a backfit analysis is not required for this direct final rule because these amendments do not include any provisions that would require backfits as defined in 10 CFR Chapter I. Furthermore, this rule is necessary so that the NRC can respond adequately to the mandate in the Government Paperwork Elimination Act of 1998 that Federal agencies "provide for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper * * *" (Pub. L. 105-277, Sec. 1704). Therefore, a backfit analysis has not been prepared for this direct final rule.

XII. Congressional Review

The provisions of 5 U.S.C. Sec. 801 *et seq.*, which govern Congressional review of rulemakings, do not apply to this rulemaking because it concerns agency procedure and practice and will not substantially affect the rights and obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 4

Administrative practice and procedure, Blind, Buildings, Civil rights, Employment, Equal employment opportunity, Federal aid programs, Grant programs, Handicapped, Loan programs, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 9

Criminal penalties, Freedom of information, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

10 CFR Part 11

Hazardous materials—transportation, Investigations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

10 CFR Part 15

Administrative practice and procedure, Debt collection.

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 25

Classified information, Criminal penalties, Investigations, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 39

Byproduct material, Criminal penalties, Nuclear material, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 62

Administrative practice and procedure, Denial of access, Emergency access to low-level waste disposal, Low-level radioactive waste, Low-level radioactive waste treatment and disposal, Low-level waste policy amendments act of 1985, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 63

Criminal penalties, High-level waste, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Criminal penalties, Hazardous materials transportation, Nuclear materials, Packaging and containers, Reporting and recordkeeping requirements.

10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials transportation,

Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 76

Certification, Criminal penalties, Radiation protection, Reporting and record keeping requirements, Security measures, Special nuclear material, Uranium enrichment by gaseous diffusion.

10 CFR Part 81

Administrative practice and procedure, Inventions and patents.

10 CFR Part 95

Classified information, Criminal penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 100

Nuclear power plants and reactors, Reactor siting criteria.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Chapter I:

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f); Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Section 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101-410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note). Section 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Section 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553, Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.206, the second sentence of paragraph (a) is revised to read as follows:

§ 2.206 Requests for action under this subpart.

(a) * * * Requests must be addressed to the Secretary of the Commission and must be filed either by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by electronic submission, for example, via facsimile, Electronic Information Exchange, e-mail, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov; or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. * * *

3. In § 2.802, paragraph (a) and the second sentence of the introductory text of paragraph (b) are revised to read as follows:

§ 2.802 Petition for rulemaking.

(a) Any interested person may petition the Commission to issue, amend or rescind any regulation. The petition should be addressed to the Secretary, Attention: Rulemakings and Adjudications Staff, and sent either by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by facsimile; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, e-mail, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(b) * * * A prospective petitioner also may telephone the Rules and Directives Branch on (301) 415-7163, or toll free on (800) 368-5642, or e-mail to NRCREP@nrc.gov.

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PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

4. The authority citation for part 4 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 274, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Subpart A also issued under secs. 602–605, Pub. L. 88–352, 78 Stat. 252, 253 (42 U.S.C. 2000d–1–2000d–4); sec. 401, 88 Stat. 1254 (42 U.S.C. 5891).

Subpart B also issued under sec. 504, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 706); sec. 119, Pub. L. 95–602, 92 Stat. 2984 (29 U.S.C. 794); sec. 122, Pub. L. 95–602, 92 Stat. 2984 (29 U.S.C. 706(6)).

Subpart C also issued under Title III of Pub. L. 94–135, 89 Stat. 728, as amended (42 U.S.C. 6101).

Subpart E also issued under 29 U.S.C. 794.

5. Section 4.5 is revised to read as follows:

§ 4.5 Communications and reports.

Except as otherwise indicated, communications and reports relating to this part may be sent to the NRC by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

6. In § 4.570, paragraph (c) is revised to read as follows:

§ 4.570 Compliance procedures.

* * * * *

(c) The Civil Rights Program Manager, Office of Small Business and Civil Rights, shall be responsible for coordinating implementation of this section. Complaints should be sent to the NRC using an appropriate method listed in § 4.5.

* * * * *

PART 9—PUBLIC RECORDS

7. The authority citation for Part 9 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99–570.

Subpart B is also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

8. Section 9.6 is added to read as follows:

§ 9.6 Communications.

Except as otherwise indicated, communications relating to this part may be sent to the NRC by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission via e-mail to the FOIA e-mail address. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

9. In § 9.23, the first and second sentences of paragraph (b) are revised to read as follows:

§ 9.23 Request for records.

* * * * *

(b) A person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, by an appropriate method listed in § 9.6. The request should be clearly marked “Freedom of Information Act Request.” * * *

* * * * *

10. In § 9.29, the second and fifth sentences of paragraph (a) are revised to read as follows:

§ 9.29 Appeal from initial determination.

(a) * * * For agency records denied by an Office Director reporting to the Executive Director for Operations, the appeal should be addressed to the Executive Director for Operations and

sent using an appropriate method listed in § 9.6. * * * The appeal should be clearly marked “Appeal from Initial FOIA Decision.” * * *

* * * * *

11. In § 9.41, paragraph (a)(2) is revised to read as follows:

§ 9.41 Requests for waiver or reduction of fees.

(a) * * *

(2) Each request for a waiver or reduction of fees should be addressed to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, and sent using an appropriate method listed in § 9.6.

* * * * *

12. In § 9.53, paragraph (a) and the first sentence of paragraph (b) are revised to read as follows:

§ 9.53 Requests; how and where presented.

(a) Requests may be made in person or in writing. Assistance regarding requests or other matters relating to the Privacy Act of 1974 may be obtained by writing to the Freedom of Information Act and Privacy Act Officer, by an appropriate method listed in § 9.6. Requests relating to records in multiple systems of records should be made to the same Officer. That Officer shall assist the requestor in identifying his request more precisely and shall be responsible for forwarding the request to the appropriate system manager.

(b) All written requests must be made to the Freedom of Information Act and Privacy Act Officer, by an appropriate method listed in § 9.6, and should be clearly marked “Privacy Act Request,” “Privacy Act Disclosure Accounting Request,” or “Privacy Act Correction Request,” as appropriate. * * *

* * * * *

13. In § 9.65, the third and fifth sentences of paragraph (b) are revised to read as follows:

§ 9.65 Access determinations; appeals.

* * * * *

(b) * * * For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing, addressed to the Inspector General, and sent by an appropriate method listed in § 9.6. * * * The appeal should be clearly marked “Privacy Act Appeal—Denial of Access.” * * *

* * * * *

14. In § 9.66, the third and fourth sentences of paragraph (b) are revised to read as follows:

§ 9.66 Determinations authorizing or denying correction of records; appeals.

* * * * *

(b) * * * The appeal must be in writing, addressed to the Freedom of Information Act and Privacy Act Officer, and sent by an appropriate method listed in § 9.6, for submission to the appropriate appellate authority for a final determination. The appeal should be clearly marked "Privacy Act Correction Appeal." * * *

15. In § 9.67, the second sentence of paragraph (a) is revised to read as follows:

§ 9.67 Statements of disagreement.

(a) * * * "Statements of Disagreement" must be addressed, as appropriate, to the Inspector General or the Executive Director for Operations, and sent by an appropriate method listed in § 9.6. They should also be clearly marked "Privacy Act Statement of Disagreement."

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

16. The authority citation for Part 11 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

17. In § 11.15, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 11.15 Application for special nuclear material access authorization.

(a)(1) Application for special nuclear material access authorization, renewal, or change in level must be filed by the licensee on behalf of the applicant with the Director, Division of Facilities and Security, Mail Stop T7-D57, either by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The

guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

* * *

PART 15—DEBT COLLECTION PROCEDURES

18. The authority citation for Part 15 is revised to read as follows:

Authority: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1, Pub. L. 97-258, 96 Stat. 972 (31 U.S.C. 3713); sec. 5, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3716); Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3719); Federal Claims Collection Standards, 31 CFR Chapter IX, parts 900-904; 31 U.S.C. 3701, 3716; 31 CFR part 285; 26 U.S.C. 6402(d); 31 U.S.C. 3720A; 26 U.S.C. 6402(c); 42 U.S.C. 664; Pub. L. 104-134, as amended (31 U.S.C. 3713); 5 U.S.C. 5514; Executive Order 12146 (3 CFR 1980 Comp. pp. 409-412); Executive Order 12988 (3 CFR, 1996 Comp., pp. 157-163).

19. Section 15.3 is revised to read as follows:

§ 15.3 Communications.

Unless otherwise specified, communications concerning the regulations in this part may be addressed to the Secretary of the Nuclear Regulatory Commission and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff; by hand delivery to the NRC's offices at 11555 Rockville Pike, One White Flint North, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

PART 19—NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

20. The authority citation for Part 19 is revised to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948,

955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282, 2297f); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

21. In § 19.11, paragraph (c)(2) is revised to read as follows:

§ 19.11 Posting of notices to workers.

* * *

(c) * * *

(2) Additional copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * *

22. In § 19.17, the second sentence of paragraph (a) is revised to read as follows:

§ 19.17 Inspections not warranted; informal review.

(a) * * * The complainant may obtain review of this determination by submitting a written statement of position to the Executive Director for Operations, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. The Executive Director for Operations will provide the licensee with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. * * *

* * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

23. The authority citation for Part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

24. Section 20.1007 is revised to read as follows:

§ 20.1007 Communications.

Unless otherwise specified, communications or reports concerning the regulations in this part should be addressed to the Executive Director for Operations (EDO), and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic

submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

25. In § 20.2203, paragraph (d) is revised to read as follows:

§ 20.2203 Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits.

* * * * *

(d) All licensees, other than those holding an operating license for a nuclear power plant, who make reports under paragraph (a) of this section shall submit the report in writing either by mail addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where

practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. A copy should be sent to the appropriate NRC Regional Office listed in Appendix D to this part.

26. In § 20.2206, paragraph (c) is revised to read as follows:

§ 20.2206 Reports of individual monitoring.

* * * * *

(c) The licensee shall file the report required by § 20.2206(b), covering the preceding year, on or before April 30 of each year. The licensee shall submit the report to the REIRS Project Manager by an appropriate method listed in § 20.1007.

27. Appendix D to Part 20 is revised to read as follows:

APPENDIX D TO PART 20—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

Region	Address	Telephone (24 hour)	E-Mail
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, Region I, 475 Allendale Road, King of Prussia, PA 19406.	(610) 337–5000 (FTS) 346–5000	<i>RidsRegion1 MailCenter@ nrc.gov.</i>
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, Region II, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, GA 30303.	(404) 562–4400 (FTS) 346–5000	<i>RidsRegion2 MailCenter@ nrc.gov.</i>
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.	USNRC, Region III, 801 Warrenville Road, Lisle, IL 60532.	(708) 829–9500 (FTS) 829–9500	<i>RidsRegion3MailCenter @nrc.gov.</i>
Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific.	USNRC, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011.	(817) 860–8100 (FTS) 728–8100	<i>RidsRegion4MailCenter @nrc.gov.</i>

28. In Appendix G to Part 20, the third paragraph under 1. MANIFEST is revised to read as follows:

Appendix G to Part 20—Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests

I. Manifest

* * * * *

NRC Forms 540, 540A, 541, 541A, 542 and 542A, and the accompanying instructions, in hard copy, may be obtained by writing or calling the

Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5877, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

29. The authority citation for Part 21 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2953 (42 U.S.C. 2201, 2282, 2297f); secs. 201, as amended, 206, 88 Stat. 1242, as amended, 1246 (42 U.S.C. 5841, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 21.2 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

30. Section 21.5 is revised to read as follows:

§ 21.5 Communications.

Except where otherwise specified in this part, written communications and reports concerning the regulations in this part must be addressed to the NRC's Document Control Desk, and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. In the case of a licensee, a copy of the communication must also be sent to the appropriate Regional Administrator at the address specified in Appendix D to Part 20 of this chapter.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

31. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); E.O. 10865, as amended, 3 CFR 1959—1963 Comp., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 396.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

32. Section 25.9 is revised to read as follows:

§ 25.9 Communications.

Except where otherwise specified, communications and reports concerning the regulations in this part should be addressed to the Director, Division of Facilities and Security, Mail Stop T7-D57, and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting

the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

33. The authority citation for Part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

34. In § 30.6, paragraph (a)(3) is added, and paragraphs (a)(1) and (a)(2), the introductory text of paragraph (b), and the last sentences of paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) are revised, to read as follows:

§ 30.6 Communications.

(a) * * *

(1) By mail addressed: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(2) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland.

(3) Where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(b) The Commission has delegated to the four Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted to the appropriate Regional Administrator. The Administrators' jurisdictions and mailing addresses are listed in paragraph (b)(2) of this section.

* * * * *

(2) * * *

(i) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 475 Allendale Road, King of Prussia, Pennsylvania 19406; Where e-mail is appropriate it should be addressed to

RidsRgn1MailCenter@nrc.gov.

(ii) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region II, Material Licensing/Inspection Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, GA 30303; Where e-mail is appropriate it should be addressed to

RidsRgn2MailCenter@nrc.gov.

(iii) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 801 Warrenville Road, Lisle, Illinois 60532-4351; Where e-mail is appropriate it should be addressed to

RidsRgn3MailCenter@nrc.gov.

(iv) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011; Where e-mail is appropriate it should be addressed to

RidsRgn4MailCenter@nrc.gov.

35. In § 30.7, paragraph (e)(3) is revised to read as follows:

§ 30.7 Employee protection.

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

36. In § 30.50, the third sentence of paragraph (c)(2) is revised to read as follows:

§ 30.50 Reporting requirements.

(c) * * *

(2) * * * These written reports must be sent to the NRC using an appropriate method listed in § 30.6(a); and a copy must be sent to the appropriate NRC Regional office listed in Appendix D to Part 20 of this chapter. * * *

37. In § 30.55, the third sentence of paragraph (c) is revised to read as follows:

§ 30.55 Tritium reports.

(c) * * * Copies of such written report shall be sent to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 30.6(a). * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

38. The authority citation for Part 31 is revised to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

39. In § 31.5, the introductory text of paragraph (c)(8)(ii), the third sentence of the introductory text of paragraph (c)(9)(i), and the second sentence of paragraph (c)(11) are revised to read as follows:

§ 31.5 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere.

* * * * *

(c) * * *

(8) * * *

(ii) Shall, within 30 days after the transfer of a device to a specific licensee or export, furnish a report to the Director of Nuclear Material Safety and Safeguards, ATTN: GLTS, using an appropriate method listed in § 30.6(a) of this chapter. The report must contain—

* * * * *

(9) * * *

(i) * * * Within 30 days of the transfer, the transferor shall report to the Director of Nuclear Material Safety and Safeguards, ATTN: GLTS, using an appropriate method listed in § 30.6(a) of this chapter—

* * * * *

(11) * * * If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Director of the Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a) of this chapter, a written justification for the request.

* * * * *

40. In § 31.11, paragraph (b)(1) is revised to read as follows:

§ 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

* * * * *

(b) * * *

(1) Has filed NRC Form 483, "Registration Certificate—In Vitro Testing with Byproduct Material Under General License," with the Director of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a), and has received from the Commission a validated copy of NRC Form 483 with a registration number assigned; or

* * * * *

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

41. The authority citation for Part 31 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

42. In § 32.12, paragraph (a) is revised to read as follows:

§ 32.12 Same: Records and material transfer reports.

(a) Each person licensed under § 32.11 shall maintain records of transfer of

material and file a report with the Director of Nuclear Material Safety and Safeguards by an appropriate method listed in § 30.6(a) of this chapter. A copy of the report must be sent to the appropriate NRC Regional Office listed in Appendix D to Part 20 of this chapter.

* * * * *

43. In § 32.16, paragraph (a) is revised to read as follows:

§ 32.16 Certain items containing byproduct material: Records and reports of transfer.

(a) Each person licensed under § 32.14 or § 32.17 shall maintain records of transfer of material and file a report with the Director of Nuclear Material Safety and Safeguards by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the appropriate NRC Regional Office listed in Appendix D to Part 20 of this chapter.

* * * * *

44. In § 32.20, paragraph (b) is revised to read as follows:

§ 32.20 Same: Records and material transfer reports.

* * * * *

(b) The licensee shall file a summary report stating the total quantity of each isotope transferred under the specific license with the Director of Nuclear Material Safety and Safeguards by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the appropriate NRC Regional Office listed in Appendix D to Part 20 of this chapter.

* * * * *

45. In § 32.25, the introductory text of paragraph (c) is revised to read as follows:

§ 32.25 Conditions of licenses issued under § 32.22: Quality control, labeling, and reports of transfer.

* * * * *

(c) Maintain records and file reports with the Director of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a), with copies to the appropriate NRC Regional Office listed in Appendix D to Part 20 of this chapter.

* * * * *

46. In § 32.52, the first sentence of the introductory text of paragraph (a) is revised to read as follows:

§ 32.52 Same: Material transfer reports and records.

* * * * *

(a) The person shall report to the Director of Nuclear Material Safety and Safeguards, ATTN: GLTS, by an appropriate method listed in § 30.6(a), all transfers of such devices to persons for use under the general license in

§ 31.5 of this chapter and all receipts of devices from persons licensed under § 31.5 of this chapter. * * *

* * * * *

47. The first sentence of § 32.56 is revised to read as follows:

§ 32.56 Same: Material transfer reports.

Each person licensed under § 32.53 shall file an annual report with the Director of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a) of this chapter, which report must state the total quantity of tritium or promethium-147 transferred to persons generally licensed under § 31.7 of this chapter. * * *

48. In § 32.210, paragraph (b) is revised to read as follows:

§ 32.210 Registration of product information.

* * * * *

(b) The request for review must be sent to the NRC's Office of Nuclear Material Safety and Safeguards, Materials Safety and Inspection Branch, by an appropriate method listed in § 30.6(a) of this chapter.

* * * * *

PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

49. The authority citation for Part 34 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Section 34.45 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

50. In § 34.27, the third sentence of paragraph (d) is revised to read as follows:

§ 34.27 Leak testing and replacement of sealed sources.

* * * * *

(d) * * * A report must be filed with the Director of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a) of this chapter, the report to be filed within 5 days of any test with results that exceed the threshold in this subsection, and to describe the equipment involved, the test results, and the corrective action taken. * * *

* * * * *

51. In § 34.43, the second sentence of paragraph (a)(1) is revised to read as follows:

§ 34.43 Training.

(a) * * *

(1) * * * (An independent organization that would like to be recognized as a certifying entity shall submit its request to the Director, Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 30.6(a) of this chapter.) or

* * * * *

52. In § 34.101, the introductory text of paragraph (a) is revised to read as follows:

§ 34.101 Notifications.

(a) In addition to the reporting requirements specified in § 30.50 and under other sections of this chapter, such as § 21.21, each licensee shall send a written report to the NRC's Office of Nuclear Material Safety and Safeguards, Division of Industrial and Medical Nuclear Safety, by an appropriate method listed in § 30.6(a) of this chapter, with a copy to the Director of the NRC's Office of Nuclear Regulatory Research, within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

53. The authority citation for Part 35 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

54. In § 35.14, paragraph (b), introductory text, and paragraph (c), are revised to read as follows:

§ 35.14 Notifications.

* * * * *

(b) A licensee shall notify the Commission no later than 30 days after:

* * * * *

(c) The licensee shall send the documents required in this section to the appropriate address identified in § 30.6 of this chapter.

55. In § 35.59, paragraph (e)(2) is revised to read as follows:

§ 35.59 Requirements for possession of sealed sources and brachytherapy sources.

* * * * *

(e) * * *

(2) File a report within five days of the leakage test with the appropriate NRC Office listed in § 30.6 of this chapter, with a copy to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, by an

appropriate method listed in § 30.6 of this chapter, describing the equipment involved, the test results, and the action taken.

* * * * *

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

56. The authority citation for Part 39 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

57. In § 39.77, paragraph (a) is revised to read as follows:

§ 39.77 Notification of incidents and lost sources; abandonment procedures for irretrievable sources.

(a) The licensee shall immediately notify the appropriate NRC Regional Office by telephone and subsequently, within 30 days, by confirmation in writing, using an appropriate method listed in § 30.6(a) of this chapter, if the licensee knows or has reason to believe that a sealed source has been ruptured. The written confirmation must designate the well or other location, describe the magnitude and extent of the escape of licensed materials, assess the consequences of the rupture, and explain efforts planned or being taken to mitigate these consequences.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

58. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46

also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

59. In § 40.5, paragraph (a)(3) is added, and paragraphs (a)(1) and (a)(2), the introductory text of paragraph (b), and the last sentences of paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) are revised, to read as follows:

§ 40.5 Communications.

(a) * * *

(1) By mail addressed: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(2) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland.

(3) Where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(b) The Commission has delegated to the four Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted to the appropriate Regional Administrator. The administrators' jurisdictions and mailing addresses are listed in paragraph (b)(2) of this section.

* * *

(2) * * *

(i) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406; Where e-mail is appropriate it should be addressed to RidsRgn1MailCenter@nrc.gov.

(ii) * * * All mailed or hand-delivered inquiries, communications,

and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region II Material Licensing/Inspection Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Suite 23T85, Atlanta, Georgia 30303; Where e-mail is appropriate it should be addressed to RidsRgn2MailCenter@nrc.gov.

(iii) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 801 Warrenville Road, Lisle, Illinois 60532-4351; Where e-mail is appropriate it should be addressed to RidsRgn3MailCenter@nrc.gov.

(iv) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011; Where e-mail is appropriate it should be addressed to RidsRgn4MailCenter@nrc.gov.

60. In § 40.7, paragraph (e)(3) is revised to read as follows:

§ 40.7 Employee protection.

* * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * *

61. In § 40.23, the first sentence of paragraph (b)(1) is revised to read as follows:

§ 40.23 General license for carriers of transient shipments of natural uranium other than in the form of ore or ore residue.

* * *

(b)(1) Persons generally licensed under paragraph (a) of this section, who plan to carry a transient shipment with scheduled stops at a United States port, shall notify the Spent Fuel Project

Office, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 40.5. * * *

62. In § 40.25, the first sentence of the introductory text of paragraph (c)(1) is revised to read as follows:

§ 40.25 General license for use of certain industrial products or devices.

* * *

(c) * * *

(1) Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by paragraph (a) of this section shall file NRC Form 244, "Registration Certificate—Use of Depleted Uranium Under General License," with the Director of the NRC's Division of Industrial and Medical Nuclear Safety, by an appropriate method listed in § 40.5, with a copy to the appropriate NRC Regional Administrator. * * *

* * *

63. In § 40.35, the first sentence of paragraph (e)(1) and the third sentence of paragraph (f) are revised to read as follows:

§ 40.35 Conditions of specific licenses issued pursuant to § 40.34.

* * *

(e)(1) Report to the Director of the Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 40.5, all transfers of industrial products or devices to persons for use under the general license in § 40.25.

* * *

* * *

(f) * * * The licensee shall furnish the change to the Director of the Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 40.5, and to affected offsite response organizations, within six months after the change is made. * * *

64. In § 40.60, the third sentence of the introductory text of paragraph (c)(2) is revised to read as follows:

§ 40.60 Reporting requirements.

* * *

(c) * * *

(2) * * * These written reports must be sent to the NRC's Document Control Desk by an appropriate method listed in § 40.5, with a copy to the appropriate NRC regional office listed in Appendix D to Part 20 of this chapter. * * *

* * *

65. In § 40.64, the second sentence of paragraph (a), the last sentence of paragraph (b) and the second and third sentences of paragraph (c) are revised to read as follows:

§ 40.64 Reports.

(a) * * * Copies of the instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, by e-mail RidsNmssFcsc@nrc.gov, or by calling (301) 415-7213. * * *

(b) * * * Copies of the reporting instructions may be obtained either by writing to the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, by e-mail RidsNmssFcsc@nrc.gov, or by calling (301) 415-7213.

(c) * * * The initial report must be followed within a period of fifteen (15) days by a written report submitted to the appropriate NRC Regional Office, using an appropriate method listed in § 40.5, which report must set forth the details of the incident and its consequences. A copy of such written report must be sent to the Director of the Office of Nuclear Material Safety and Safeguards. * * *

* * * * *

66. In § 40.65, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 40.65 Effluent monitoring reporting requirements.

(a) * * *

(1) Within 60 days after January 1, 1976 and July 1, 1976, and within 60 days after January 1 and July 1 of each year thereafter, submit a report to the Director of the Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 40.5, with a copy to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter; which report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, and such other information as the Commission may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. * * *

* * * * *

67. In § 40.66, the first sentence of paragraph (a) is revised to read as follows:

§ 40.66 Requirements for advance notice of export shipments of natural uranium.

(a) Each licensee authorized to export natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, shall notify the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards,

by an appropriate method listed in § 40.5. * * *

* * * * *

68. In § 40.67, the first sentence of paragraph (a) is revised to read as follows:

§ 40.67 Requirement for advance notice for importation of natural uranium from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) Each licensee authorized to import natural uranium, other than in the form of ore or ore residue, in amounts exceeding 500 kilograms, from countries not party to the Convention on the Physical Protection of Nuclear Material (see Appendix F to Part 73 of this chapter) shall notify the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 40.5.

* * *

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

69. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

70. Section 50.4 is revised to read as follows:

§ 50.4 Written communications.

(a) *General requirements.* All correspondence, reports, applications, and other written communications from the applicant or licensee to the Nuclear

Regulatory Commission concerning the regulations in this part or individual license conditions must be sent either by mail addressed: ATTN: Document Control Desk; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland, between the hours of 8:15 a.m. and 4:00 p.m. eastern time; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, e-mail, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail at EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. If the communication is on paper, the signed original must be sent. If a submission due date falls on a Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date.

(b) *Distribution requirements.* Copies of all correspondence, reports, and other written communications concerning the regulations in this part or individual license conditions must be submitted to the persons and, if on paper or CD-ROM, in the quantities set forth below (addresses for the NRC Regional Offices are listed in Appendix D to Part 20 of this chapter).

(1) *Applications for amendment of permits and licenses; reports; and other communications.* All written communications (including responses to: generic letters, bulletins, information notices, regulatory information summaries, inspection reports, and miscellaneous requests for additional information) that are required of holders of operating licenses or construction permits issued pursuant to this part, must be submitted as follows, except as otherwise specified in paragraphs (b)(2) through (b)(7) of this section: To the NRC's Document Control Desk (if on paper, the signed original), with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector, if one has been assigned to the site of the facility.

(2) *Applications for permits and licenses, and amendments to applications.* Applications for construction permits, applications for operating licenses and amendments to either type of application must be

submitted as follows, except as otherwise specified in paragraphs (b)(3) through (b)(7) in this section.

(i) Applications for licenses for facilities described in § 50.21 (a) and (c) and amendments to these applications must be sent to the NRC's Document Control Desk, with a copy to the appropriate Regional Office. If the application or amendment is on paper, the submission to the Document Control Desk must be the signed original.

(ii) Applications for permits and licenses for facilities described in § 50.21(b) or § 50.22, and amendments to these applications must be sent to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector, if one has been assigned to the site of the facility. If the application or amendment is on paper or CD-ROM, the submission to the Document Control Desk must be 38 copies, one of which must be the signed original if the submission is on paper.

(3) *Acceptance review application.* Written communications required for an application for determination of suitability for docketing under § 50.30(a)(6) must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office. If the communication is on paper or CD-ROM, the submission to the Document Control Desk must be 14 copies, one of which must be the signed original if the submission is on paper.

(4) *Security plan and related submissions.* Written communications, as defined in paragraphs (b)(4)(i) through (iv) of this section, must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office. If the communication is on paper or CD-ROM, the submission to the Document Control Desk must be four copies, one of which must be the signed original if the submission is on paper.

(i) Physical security plan under § 50.34;

(ii) Safeguards contingency plan under § 50.34;

(iii) Change to security plan, guard training and qualification plan, or safeguards contingency plan made without prior Commission approval under § 50.54(p);

(iv) Application for amendment of physical security plan, guard training and qualification plan, or safeguards contingency plan under § 50.90.

(5) *Emergency plan and related submissions.* Written communications as defined in paragraphs (b)(5)(i) through (iii) of this section must be submitted to the NRC's Document Control Desk, with a copy to the

appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility. If the communication is on paper, the submission to the Document Control Desk must be the signed original.

(i) Emergency plan under § 50.34;

(ii) Change to an emergency plan under § 50.54(q);

(iii) Emergency implementing procedures under Appendix E.V of this part.

(6) *Updated FSAR.* An updated Final Safety Analysis Report (FSAR) or replacement pages, under § 50.71(e) must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility. Paper copy submissions may be made using replacement pages; however, if a licensee chooses to use electronic submission, all subsequent updates or submissions must be performed electronically on a total replacement basis. If the communication is on paper, the submission to the Document Control Desk must be 11 copies, one of which is signed. If the communications are submitted electronically, see Guidance for Electronic Submissions to the Commission.

(7) *Quality assurance related submissions.* (i) A change to the Safety Analysis Report quality assurance program description under § 50.54(a)(3) or § 50.55(f)(3), or a change to a licensee's NRC-accepted quality assurance topical report under § 50.54(a)(3) or § 50.55(f)(3), must be submitted to the NRC's Document Control Desk, with a copy to the appropriate Regional Office, and a copy to the appropriate NRC Resident Inspector if one has been assigned to the site of the facility. If the communication is on paper, the submission to the Document Control Desk must be the signed original.

(ii) A change to an NRC-accepted quality assurance topical report from nonlicensees (*i.e.*, architect/engineers, NSSS suppliers, fuel suppliers, constructors, etc.) must be submitted to the NRC's Document Control Desk. If the communication is on paper, the signed original must be sent.

(8) *Certification of permanent cessation of operations.* The licensee's certification of permanent cessation of operations, under § 50.82(a)(1), must state the date on which operations have ceased or will cease, and must be submitted to the NRC's Document Control Desk. This submission must be under oath or affirmation.

(9) *Certification of permanent fuel removal.* The licensee's certification of permanent fuel removal, under § 50.82(a)(1), must state the date on which the fuel was removed from the reactor vessel and the disposition of the fuel, and must be submitted to the NRC's Document Control Desk. This submission must be under oath or affirmation.

(c) *Form of communications.* All paper copies submitted to meet the requirements set forth in paragraph (b) of this section must be typewritten, printed or otherwise reproduced in permanent form on unglazed paper. Exceptions to these requirements imposed on paper submissions may be granted for the submission of micrographic, photographic, or similar forms.

(d) *Regulation governing submission.* Licensees and applicants submitting correspondence, reports, and other written communications under the regulations of this part are requested but not required to cite whenever practical, in the upper right corner of the first page of the submission, the specific regulation or other basis requiring submission.

(e) *Conflicting requirements.* The communications requirements contained in this section and §§ 50.12, 50.30, 50.36, 50.36a, 50.44, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.62, 50.71, 50.73, 50.82, 50.90, and 50.91 supersede and replace all existing requirements in any license conditions or technical specifications in effect on January 5, 1987. Exceptions to these requirements must be approved by the Records Management Branch, Office of the Chief Information Officer, Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7233, e-mail INFOCOLLECTS@nrc.gov.

71. In § 50.7, paragraph (e)(2) is revised to read as follows:

§ 50.7 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

72. In § 50.30, paragraph (a)(2) is revised to read as follows:

§ 50.30 Filing of application for licenses; oath or affirmation.

(a) * * *

(2) The applicant shall maintain the capability to generate additional copies of the general information and the safety analysis report, or part thereof or amendment thereto, for subsequent distribution in accordance with the written instructions of the Director, Office of Nuclear Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate.

* * * * *

73. In § 50.54, the second sentence of paragraph (s)(1) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(s)(1) * * * These plans (10 copies if on paper or CD-ROM) must be forwarded to the Director of Nuclear Reactor Regulation with a copy (3 copies if on paper or CD-ROM) to the Administrator of the appropriate NRC regional office. * * *

* * * * *

74. In § 50.55, paragraph (e)(6)(ii) is revised to read as follows:

§ 50.55 Conditions of construction permits.

* * * * *

(e) * * *

(6) * * *

(ii) Written notification submitted to the Document Control Desk, U.S. Nuclear Regulatory Commission, by an appropriate method listed in § 50.4, with a copy to the appropriate Regional Administrator at the address specified in Appendix D to Part 20 of this chapter and a copy to the appropriate NRC resident inspector within 30 days following receipt of information by the director or responsible corporate officer under paragraph (e)(1)(iii) of this section, on the identification of a defect or failure to comply.

* * * * *

75. In § 50.74, the introductory text is revised to read as follows:

§ 50.74 Notification of change in operator or senior operator status.

Each licensee shall notify the appropriate Regional Administrator as listed in Appendix D to Part 20 of this chapter within 30 days of the following in regard to a licensed operator or senior operator:

* * * * *

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

76. The authority citation for Part 51 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

77. In § 51.40, paragraph (c) is revised to read as follows:

§ 51.40 Consultation with NRC Staff.

* * * * *

(c) Questions concerning environmental matters should be addressed to the following NRC staff offices as appropriate:

(1) *Utilization facilities, including rulemaking:* Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1270, e-mail RidsNrrOd@nrc.gov.

(2) *Production facilities, including rulemaking:* Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7800, e-mail RidsNmssOd@nrc.gov.

(3) *Materials licenses, including rulemaking:* Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7800, e-mail RidsNmssOd@nrc.gov.

(4) *Research:* Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6641, e-mail RidsResOd@nrc.gov.

78. Section 51.55 is revised to read as follows:

§ 51.55 Environmental report—number of copies; distribution.

(a) Each applicant for a license to construct and operate a production or utilization facility covered by paragraphs (b)(1), (b)(2), (b)(3), or (b)(4) of § 51.20, each applicant for renewal of an operating license for a nuclear power plant, each applicant for a license amendment authorizing the decommissioning of a production or utilization facility covered by § 51.20, and each applicant for a license or license amendment to store spent fuel at a nuclear power plant after expiration of the operating license for the nuclear power plant shall submit 41 copies to the Director of the Office of Nuclear Reactor Regulation, or 5 copies to the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, of an environmental report or any supplement to an environmental report. These reports must be sent either by mail addressed: ATTN: Document Control Desk; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland, between the hours of 8:15 a.m. and 4 p.m. eastern time; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail at EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. If the communication is on paper, the signed original must be sent. If a submission due date falls on a Saturday, Sunday, or Federal holiday, the next Federal working day becomes the official due date. The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to parties and Boards in the NRC proceedings; Federal, State, and local officials; and any affected Indian tribes, in accordance with written instructions issued by the Director of the Office of Nuclear Reactor Regulation or the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate.

(b) Each applicant for a license to manufacture a nuclear power reactor, or

for an amendment to a license to manufacture, seeking approval of the final design of the nuclear power reactor, pursuant to Appendix M to part 52 of this chapter shall submit to the Commission an environmental report or any supplement to an environmental report in the manner specified in § 50.4. The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to parties and Boards in the NRC proceeding; Federal, State, and local officials; and any affected Indian tribes, in accordance with written instructions issued by the Director of Nuclear Reactor Regulation.

79. Section 51.66 is revised to read as follows:

§ 51.66 Environmental report—number of copies; distribution.

(a) Each applicant for a license or other form of permission, or an amendment to or renewal of a license or other form of permission issued pursuant to Parts 30, 32, 33, 34, 35, 36, 39, 40, 61, 70 and/or 72 of this chapter, and covered by paragraphs (b)(1) through (6) of § 51.60; or by § 51.61 or § 51.62 shall submit to the Director of Nuclear Material Safety and Safeguards an environmental report or any supplement to an environmental report in the number of copies specified in the manner specified in § 51.55(a). The applicant shall maintain the capability to generate additional copies of the environmental report or any supplement to the environmental report for subsequent distribution to Federal, State, and local officials and any affected Indian tribes in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

(b)

ENVIRONMENTAL REPORT

Type of licensing action	Number of copies to be submitted with application
Licensing actions requiring environmental impact statements pursuant to 51.20(b)	5
Licensing actions requiring environmental assessments pursuant to 51.21 ...	5

80. Section 51.121 is revised to read as follows:

§ 51.121 Status of NEPA actions.

Individuals or organizations desiring information on the NRC's NEPA process

or on the status of specific NEPA actions should address inquiries to:

(a) *Utilization facilities, including rulemaking*: Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1270, e-mail RidsNrrOd@nrc.gov.

(b) *Production facilities, including rulemaking*: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail RidsNmssOd@nrc.gov.

(c) *Materials licenses, including rulemaking*: Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7800, e-mail RidsNmssOd@nrc.gov.

(d) *Research*: Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6641, e-mail RidsResOd@nrc.gov.

81. In § 51.123, the first sentence of paragraph (a) and the first sentence of paragraph (b) are revised to read as follows:

§ 51.123 Charges for environmental documents; distribution to public; distribution to governmental agencies.

(a) *Distribution to public*. Upon written request to the Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, e-mail DISTRIBUTION@nrc.gov, and to the extent available, single copies of draft environmental impact statements and draft findings of no significant impact will be made available to interested persons without charge. * * *

(b) *Distribution to governmental agencies*. Upon written request to the Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, e-mail DISTRIBUTION@nrc.gov, and to the extent available, copies of draft and final environmental impact statements and draft final findings of no significant impact will be made available in the number requested to Federal, State and local agencies, Indian Tribes, and State, regional, and metropolitan clearinghouses. * * *

* * * * *

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

82. The authority citation for Part 52 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

83. In Appendix A to part 52, Section III.A is revised to read as follows:

Appendix A to Part 52—Design Certification Rule for the U.S. Advanced Boiling Water Reactor

* * * * *

III. Scope and Contents

A. Tier 1, Tier 2, and the generic technical specifications in the U.S. ABWR Design Control Document, GE Nuclear Energy, Revision 4 dated March 1997, are approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the generic DCD may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, Web site at <http://www.ntis.gov>. A copy is available for examination and copying at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland, telephone (301) 415-4737, e-mail pdr@nrc.gov. Copies are also available for examination at the NRC Library, 11545 Rockville Pike, Rockville, Maryland, telephone (301) 415-5610, e-mail LIBRARY@nrc.gov, and the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, e-mail fedreg.info@nara.gov.

* * * * *

84. In Appendix B to Part 52, section III.A is revised to read as follows:

Appendix B to Part 52—Design Certification Rule for the System 80+ Design

* * * * *

III. Scope and Contents

A. Tier 1, Tier 2, and the generic technical specifications in the System 80+ Design Control Document, ABB-CE, with revisions dated January 1997, are approved for incorporation by reference by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies

of the generic DCD may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, Web site at <http://www.ntis.gov>. A copy is available for examination and copying at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland, telephone (301) 415-4737, e-mail pdr@nrc.gov. Copies are also available for examination at the NRC Library, 11545 Rockville Pike, Rockville, Maryland, telephone (301) 415-5610, e-mail LIBRARY@nrc.gov, and the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, e-mail fedreg.info@nara.gov.

85. In Appendix C to Part 52, the third and fourth sentences of section III.A are revised to read as follows:

Appendix C to Part 52—Design Certification Rule for the AP600 Design

* * * * *

III. Scope and Contents

A. * * * A copy of the generic DCD is available for examination and copying at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland, telephone (301) 415-4737, e-mail pdr@nrc.gov. Copies are also available for examination at the NRC Library, 11545 Rockville Pike, Rockville, Maryland, telephone (301) 415-5610, e-mail LIBRARY@nrc.gov; and the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, e-mail fedreg.info@nara.gov.

* * * * *

PART 55—OPERATORS' LICENSES

86. The authority citation for Part 55 is revised to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

87. In § 55.5, paragraphs (a)(2), (b)(2), and (b)(3) are revised, and paragraph (a)(3) is added, to read as follows:

§ 55.5 Communications.

(a) * * *

(1) * * *

(2) By delivery in person to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland, or

(3) Where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(b) * * *

(2) Any application for a license or license renewal filed under the regulations in this part involving a nuclear power reactor licensed under 10 CFR Part 50 and any related inquiry, communication, information, or report must be submitted to the Regional Administrator by an appropriate method listed in paragraph (a) of this section. The Regional Administrator or the Administrator's designee will transmit to the Director of Nuclear Reactor Regulation any matter that is not within the scope of the Regional Administrator's delegated authority.

(i) If the nuclear power reactor is located in Region I, submissions must be made to the Regional Administrator of Region I. Submissions by mail or hand delivery must be addressed to the Administrator at U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406; Where e-mail is appropriate it should be addressed to RidsRgn1MailCenter@nrc.gov.

(ii) If the nuclear power reactor is located in Region II, submissions must be made to the Regional Administrator of Region II. Submissions by mail or hand delivery must be addressed to the Administrator at U.S. Nuclear Regulatory Commission, Atlanta Federal Center, Suite 23T85, 61 Forsyth Street, SW, Atlanta, GA 30303; Where e-mail is appropriate it should be addressed to RidsRgn2MailCenter@nrc.gov.

(iii) If the nuclear power reactor is located in Region III, submissions must be made to the Regional Administrator of Region III. Submissions by mail or hand delivery must be addressed to the Administrator at U.S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, IL 60532-4351; Where e-mail is appropriate it should be addressed to RidsRgn3MailCenter@nrc.gov.

(iv) If the nuclear power reactor is located in Region IV, submissions must be made to the Regional Administrator

of Region IV. Submissions by mail or hand delivery must be addressed to the Administrator at U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011; Where e-mail is appropriate it should be addressed to RidsRgn4MailCenter@nrc.gov.

(3)(i) Any application for a license or license renewal filed under the regulations in this part involving a test and research reactor facility licensed under 10 CFR Part 50 and any related inquiry, communication, information, or report must be submitted to the Office of Nuclear Reactor Regulation, Division of Regulatory Improvement Programs at the NRC's headquarters, by an appropriate method listed in paragraph (a) of this section.

(ii) For all test and research reactor facilities located in the NRC's

Regions, submissions must be made to the Office of Nuclear Reactor Regulation, Director of the Division of Regulatory Improvement Programs at the NRC's headquarters, by an appropriate method listed in paragraph (a) of this section.

88. In § 55.23, the introductory text is revised to read as follows:

§ 55.23 Certification.

To certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign NRC Form 396, "Certification of Medical Examination by Facility Licensee," which can be obtained by writing the Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling the Branch at (301) 415-5877, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

89-90. In § 55.31, paragraph (a)(1) is revised to read as follows:

§ 55.31 How to apply.

(a) * * *

(1) Complete NRC Form 398, "Personal Qualification Statement—Licensee," which can be obtained by writing the Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling the Branch at (301) 415-5877, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

91. The authority citation for Part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

92. In § 60.4, paragraph (a) is revised to read as follows:

§ 60.4 Communications and records.

(a) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission; Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

93. In § 60.9, paragraph (e)(2) is revised to read as follows:

§ 60.9 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415–5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at

<http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

94. In § 60.22, paragraphs (a) and (b) are revised to read as follows:

§ 60.22 Filing and distribution of application.

(a) An application for a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area at a site which has been characterized, and any amendments thereto, and an accompanying environmental impact statement and any supplements, must be signed by the Secretary of Energy or the Secretary's authorized representative and must be filed with the Director, in triplicate if the document is submitted in paper form or on CD-ROM.

(b) If submitted in paper form or on CD-ROM, each portion of such application and any amendments, and each environmental impact statement and any supplements, shall be accompanied by 30 additional copies. DOE shall maintain the capability to generate additional copies for distribution in accordance with written instructions from the Director or the Director's designee.

* * * * *

95. In § 60.44, the fifth sentence of paragraph (b) is revised to read as follows:

§ 60.44 Changes, tests, and experiments.

* * * * *

(b) * * * The DOE shall furnish the report to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter, by an appropriate method listed in § 60.4(a), with a copy to the Director of the NRC's Office of Nuclear Material Safety and Safeguards.

* * * * *

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

96. The authority citation for Part 61 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

97. Section 61.4 is revised to read as follows:

§ 61.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

98. In § 61.9, paragraph (e)(2) is revised to read as follows:

§ 61.9 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 can be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415–5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

99. In § 61.20, paragraphs (a) and (b) are revised to read as follows:

§ 61.20 Filing and distribution of application.

(a) An application for a license under this part, and any amendments thereto, must be filed with the Director, must be signed by the applicant or the applicant's authorized representative under oath or affirmation, and, if the document is in paper form or on CD-ROM, must consist of three copies, one of which is the signed original if the document is on paper.

(b) If the document is on paper or CD-ROM, the applicant shall maintain the capability to generate additional copies of the application for distribution in accordance with written instructions

from the Director or the Director's designee.

* * * * *

100. In § 61.80, the first sentence of paragraph (i)(1) is revised to read as follows:

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(i)(1) Each licensee authorized to dispose of waste materials received from other persons under this part shall submit annual reports to the Director of the Division of Waste Management in the NRC's Office of Nuclear Material Safety and Safeguards, by an appropriate method listed in § 60.4, with a copy to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter. * * *

* * * * *

PART 62—CRITERIA AND PROCEDURES FOR EMERGENCY ACCESS TO NON-FEDERAL AND REGIONAL LOW-LEVEL WASTE DISPOSAL FACILITIES

101. The authority citation for Part 62 is revised to read as follows:

Authority: Secs. 81, 161, as amended, 68 Stat. 935, 948, 949, 950, 951, as amended (42 U.S.C. 2111, 2201); secs. 201, 209, as amended, 88 Stat. 1242, 1248, as amended (42 U.S.C. 5841, 5849); secs. 3, 4, 5, 6, 99 Stat. 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857 (42 U.S.C. 2021c, 2021d, 2021e, 2021f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

102. Section 62.3 is revised to read as follows:

§ 62.3 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

PART 63—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN A GEOLOGIC REPOSITORY AT YUCCA MOUNTAIN, NEVADA

103. The authority citation for Part 63 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97-425, 96 Stat. 2213g, 2238, as amended (42 U.S.C. 10134, 10141), and Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

104. In § 63.2, the definition of *Publicly Available Record System (PARS) Library* is added to read as follows:

§ 63.2 Definitions

* * * * *

The *Publicly Available Records System (PARS) Library* is the electronic library generated by the NRC's Agencywide Documents Access and Management System (ADAMS) to provide access to public documents. PARS has full text documents which can be searched using specific fields and parameters. The public can search, download, print, create reports, and order documents online. The PARS Library contains publicly available documents created or received by NRC since November 1, 1999, as well as some older documents that the NRC has retrofit into the collection. PARS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html>.

* * * * *

105. In § 63.4, paragraph (a) is revised to read as follows:

§ 63.4 Communications and records.

(a) Except as otherwise specified, in this part or in Subpart J of Part 2 of this chapter, all communications and reports concerning the regulations in this part and applications filed under them should be sent to the NRC by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission,

for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

* * * * *

106. In § 63.9, paragraph (e)(2) is revised to read as follows:

§ 63.9 Employee protection.

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, from the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by accessing the NRC Website at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

107. In § 63.16, paragraph (f) is revised to read as follows:

§ 63.16 Review of site characterization activities.

* * * * *

(f) The NRC shall place all correspondence between DOE and NRC resulting from the requirements of this section, including the reports described in paragraph (b) of this section, in the Publicly Available Records System (PARS) Library.

* * * * *

108. In § 63.22, paragraph (b) is revised to read as follows:

§ 63.22 Filing and distribution of application.

* * * * *

(b) DOE shall submit 30 additional copies of each portion of the application and any amendments, and each environmental impact statement and any supplements. DOE shall maintain the capability to generate additional copies for distribution in accordance with written instructions from the Director or the Director's designee.

* * * * *

109. In § 63.44, paragraph (c)(2) is revised to read as follows:

§ 63.44 Changes, tests, and experiments.

* * * *

(c) * * *

(2) No less frequently than every 24 months, DOE shall prepare a report containing a brief description of such changes, tests, and experiments, including a summary of the evaluation of each. These written reports must be sent to the NRC using an appropriate method listed in § 63.4; and DOE shall furnish the report to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter, with a copy to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Any report submitted under this paragraph must be made a part of the public record of the licensing proceedings.

* * * *

110. In § 63.61, paragraph (c) is revised to read as follows:

§ 63.61 Provision of information.

* * * *

(c) The NRC shall place communications by the Director under this section in the Publicly Available Records System (PARS) Library and furnish copies to DOE.

111. In § 63.63, paragraph (f) is revised to read as follows:

§ 63.63 Participation in license reviews.

* * * *

(f) The NRC shall place all proposals submitted under this section, and responses to them, in the Publicly Available Records System (PARS) Library.

112. In § 63.73, paragraph (d) is revised to read as follows:

§ 63.73 Reports of deficiencies.

* * * *

(d) The requisite notification must be as specified in the applicable regulation. A copy of the written report must be sent to the NRC Operations Center, Document Control Desk, U.S. NRC, to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, and to the NRC onsite representative using an appropriate method listed in § 63.4 of this chapter.

113. In § 63.144, paragraph (b)(1) is revised to read as follows:

§ 63.144 Quality assurance program change.

* * * *

(b) * * *

(1) The signed document must be submitted to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the

Director, Office of Nuclear Material and Safeguards, U. S. Nuclear Regulatory Commission, Washington, DC 20555, and one copy to the appropriate NRC Resident Inspector, if one has been assigned to the site or facility, using an appropriate method listed in § 63.4 of this chapter.

* * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

114. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.82 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

115. In § 70.5, paragraphs (a)(1) and (a)(2), the introductory text of paragraph (b), and the last sentences of paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) are revised and paragraph (a)(3) is added, to read as follows:

§ 70.5 Communications.

(a) * * *

(1) By mail addressed to: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

(2) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland.

(3) Where practicable, by electronic submission, for example, via Electronic Information Exchange, and CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission,

Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

(b) The Commission has delegated to the four Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted to the appropriate Regional Administrator. The Administrators' jurisdictions and mailing addresses are listed in paragraph (b)(2) of this section.

* * * *

(2) * * *

(i) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region I, Nuclear Material Section B, 475 Allendale Road, King of Prussia, Pennsylvania 19406; Where e-mail is appropriate it should be addressed to

RidsRgn1MailCenter@nrc.gov.

(ii) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region II, Material Licensing/Inspection Branch, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, GA 30303; Where e-mail is appropriate it should be addressed to

RidsRgn2MailCenter@nrc.gov.

(iii) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 801 Warrenville Road, Lisle, Illinois 60532–4351; Where e-mail is appropriate it should be addressed to

RidsRgn3MailCenter@nrc.gov.

(iv) * * * All mailed or hand-delivered inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must use the following address: U.S. Nuclear Regulatory Commission, Region IV, Material

Radiation Protection Section, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011; Where e-mail is appropriate it should be addressed to *RidsRgn4MailCenter@nrc.gov*.

116. In § 70.7, paragraph (e)(3) is revised to read as follows:

§ 70.7 Employee protection.

* * * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, from the Publishing Services Branch at (301) 415-5877, via e-mail to *forms@nrc.gov*, or by accessing the NRC Website at *http://www.nrc.gov* and selecting forms from the index found on the home page.

* * * *

117. In § 70.20b, paragraphs (f)(1), (f)(2)(ii), (f)(2)(iii), and (g)(1) are revised to read as follows:

§ 70.20b General license for carriers of transient shipments of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel.

* * * *

(f)(1) Persons generally licensed under this section, who plan to carry transient shipments with scheduled stops at United States ports, shall notify in writing the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 70.5(a).

(2) * * *

(ii) The Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, has been notified by telephone at (301) 415-8524, at least 10 days before transport of the shipment commences at the shipping facility, that a written advance shipping notice has been sent to the Office; and

(iii) The Spent Fuel Project Office will be notified by telephone at (301) 415-8524 of any changes to the shipment itinerary.

* * * *

(g) * * *

(1) Provide to the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, the information required under paragraph (f) of this section.

* * * *

118. In § 70.21, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 70.21 Filing.

(a)(1) A person may apply for a license to possess and use special nuclear material in a plutonium processing or fuel fabrication plant, or for a uranium enrichment facility license by filing the application with the Director of the NRC's Office of Nuclear Material Safety and Safeguards in accordance with the instructions in § 70.5(a). If the application is on paper or CD-ROM, one copy must be provided. If the application is submitted electronically, see guidance for electronic submissions to the Commission.

(2) A person may apply for any other license issued under this part, by filing the application in accordance with the instructions in § 70.5(a). If the application is on paper, one copy must be provided. If the application is submitted electronically, see guidance for electronic submissions to the Commission.

* * * *

119. In § 70.32, the second sentence of the introductory text of paragraph (c)(2), the last sentences of paragraphs (d), (e), and (g), and the third sentence of paragraph (i), are revised to read as follows:

§ 70.32 Conditions of licenses.

* * * *

(c) * * *

(2) * * * Licensees located in all four Regions as indicated in Appendix A to Part 73 of this chapter shall furnish the Director of the NRC's Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 70.5(a), a report containing a description of each change within:

* * * *

(d) * * * Within two months after each change, a report containing a description of the change must be furnished to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 70.5(a); and a copy must be sent to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter.

(e) * * * The licensee shall maintain records of changes to the plan made without prior Commission approval, for three years from the effective date of the change, and shall, within two months after the change is made, furnish a report containing a description of each change to the Director of the NRC's Office of Nuclear Material Safety and Safeguards; the report may be sent using an appropriate method listed in § 70.5(a), and a copy of the report must be sent to the appropriate NRC Regional

Office shown in Appendix A to Part 73 of this chapter.

* * * *

(g) * * * The licensee shall maintain each change to the plan made without prior approval as a record during the period for which possession of a formula quantity of special nuclear material is authorized under a license and retain the superseded portion for 3 years after the effective date of the change, and shall, within 60 days after the change is made, furnish a report containing a description of each change to the Director of Nuclear Material Safety and Safeguards; the report may be sent using an appropriate method listed in § 70.5(a), and a copy of the report must be sent to the Regional Administrator of the appropriate NRC Regional Office as specified in Appendix A to Part 73 of this chapter.

* * * *

(i) * * * Within six months after each change is made, the licensee shall, using an appropriate method listed in § 70.5(a), furnish the Director of the NRC's Office of Nuclear Material Safety and Safeguards a copy of each change, with copies to the appropriate NRC Regional Office specified in Appendix D to Part 20 of this chapter and to affected offsite response organizations. * * *

* * * *

120. In § 70.50, the third sentence of the introductory text of paragraph (c)(2) is revised to read as follows:

§ 70.50 Reporting Requirements.

* * * *

(c) * * *

(2) * * * These written reports must be sent to the NRC's Document Control Desk, using an appropriate method listed in § 70.5(a), with a copy to the appropriate NRC regional office listed in Appendix D to Part 20 of this chapter.

* * *

* * * *

121. Section 70.59 is revised to read as follows:

§ 70.59 Effluent monitoring reporting requirements.

Within 60 days after January 1 and July 1 of each year, and using an appropriate method listed in § 70.5(a), each licensee authorized to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or in a uranium enrichment facility shall submit a report addressed: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, with a

copy to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter. The report must specify the quantity of each of the principal radionuclides released to unrestricted areas in liquid and gaseous effluents during the previous six months of operation, and such other information as the Commission may require to estimate maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting periods are significantly above the licensee's design objectives previously reviewed as part of the licensing action, the report must cover this specifically. On the basis of these reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

122. The authority citation for Part 71 is revised to read as follows:

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended; sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 71.97 also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789–790.

123. In § 71.1, paragraph (a) is revised to read as follows:

§ 71.1 Communications and records.

(a) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer,

U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

* * * * *

124. In § 71.12, paragraph (c)(3) is revised to read as follows:

§ 71.12 General license: NRC-approved package.

* * * * *

(c) * * *

(3) Before the licensee's first use of the package, submits in writing to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in § 71.1(a), the licensee's name and license number and the package identification number specified in the package approval.

* * * * *

125. In § 71.95, the introductory text is revised to read as follows:

§ 71.95 Reports.

Using an appropriate method listed in § 71.1(a), the licensee shall report to the Director of the NRC's Office of Nuclear Material Safety and Safeguards within 30 days—

* * * * *

126. In § 71.97, the introductory text of paragraph (c)(3) is revised to read as follows:

§ 71.97 Advance notification of shipment of irradiated reactor fuel and nuclear waste.

* * * * *

(c) * * *

(3) A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.

* * * * *

127. In § 71.101, the last sentence of paragraph (c) is revised to read as follows:

§ 71.101 Quality assurance requirements.

* * * * *

(c) * * * Using an appropriate method listed in § 71.1(a), each licensee shall file a description of its quality assurance program, including a discussion of which requirements of this subpart are applicable and how they will be satisfied, with the Director of the NRC's Office of Nuclear Material Safety and Safeguards.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

128. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended; 202, 206, 88 Stat. 1242, as amended; 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241; sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

129. Section 72.4 is revised to read as follows.

§ 72.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at One White Flint North, 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. eastern time; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer,

U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. If the submission deadline date falls on a Saturday, or Sunday, or a Federal holiday, the next Federal working day becomes the official due date.

130. In § 72.10, paragraph (e)(2) is revised to read as follows:

§ 72.10 Employee protection.

* * * * *

(e) * * *

(2) Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D to Part 20 of this chapter, by calling the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

131. In § 72.16, paragraphs (a) and (c) are revised to read as follows:

§ 72.16 Filing of application for specific license.

(a) *Place of filing.* Each application for a license, or amendment thereof, under this part should be filed in accordance with § 72.4.

* * * * *

(c) *Number of copies of application on paper or CD-ROM.* Each filing of an application on paper or CD-ROM for a license or license amendment under this part (including amendments to such applications) must include 16 copies of each portion of the application, safety analysis report, environmental report, and any amendments. If the application is on paper, one of the copies must be the signed original. The applicant shall maintain the capability to generate additional copies for distribution in accordance with instruction from the Director or the Director's designee.

* * * * *

132. In § 72.44, the third sentence of paragraph (f) is revised to read as follows:

§ 72.44 License conditions.

* * * * *

(f) * * * Within six months after any change is made, the licensee shall submit, in accordance with § 72.4, a report containing a description of any changes made in the plan addressed to: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory

Commission; Washington, DC 20555-0001; with a copy to the appropriate NRC Regional Office shown in Appendix D to Part 20 of this chapter.

* * * * *

133. In § 72.70, paragraphs (c)(1), (c)(2), and (c)(3) are revised to read as follows:

§ 72.70 Safety analysis report updating.

* * * * *

(c)(1) The update of the FSAR must be filed in accordance with § 72.4. If the update is filed on paper, it should be filed on a replacement-page basis; if filed electronically, it should be filed on a full replacement basis. See Guidance for Electronic Submissions to the Commission at <http://www.nrc.gov/site-help/eie.html>.

(2) A paper update filed on a replacement-page basis must include a list that identifies the current pages of the FSAR following page replacement;

(3) Each changed page must include both a change indicator for the area changed, for example a bold line vertically drawn in the margin adjacent to the portion actually changed, and a page change identification (date of change or change number or both);

* * * * *

134. In § 72.76, the second sentence of paragraph (a) is revised to read as follows:

§ 72.76 Material status reports.

(a) * * * Copies of these instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail

RidsNmssFcsc@nrc.gov, or by calling at (301) 415-7213 * * *

* * * * *

135. In § 72.78, the second sentence of paragraph (a) is revised to read as follows:

§ 72.78 Nuclear material transfer reports.

(a) * * * Copies of these instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, or by e-mail

RidsNmssFcsc@nrc.gov, or by calling at (301) 415-7213. * * *

* * * * *

136. In § 72.186, the second sentence of paragraph (b) is revised to read as follows:

§ 72.186 Change to physical security and safeguards contingency plans.

* * * * *

(b) * * * The licensee shall maintain records of changes to any such plan made without prior approval for a period of three years from the date of the change, and shall, within two months after the change is made, submit a report addressed to: Attn: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, in accordance with § 72.4, containing a description of each change. A copy of the report must be sent to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A to Part 73 of this chapter.

137. In § 72.248, paragraphs (c)(1), (c)(2), and (c)(3) are revised to read as follows:

§ 72.248 Safety analysis report updating.

* * * * *

(c)(1) The update of the FSAR must be filed in accordance with § 72.4. If the update is filed on paper, then it should be filed on a replacement-page basis; if filed electronically, it should be filed on a full replacement basis. See Guidance for Electronic Submissions to the Commission at <http://www.nrc.gov/site-help/eie.html>.

(2) A paper update filed on a replacement-page basis must include a list that identifies the current pages of the FSAR following page replacement;

(3) Each changed page must include both a change indicator for the area changed, for example a bold line vertically drawn in the margin adjacent to the portion actually changed, and a page change identification (date of change or change number or both);

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

138. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

139. Section 73.4 is revised to read as follows:

§ 73.4 Communications.

Except where otherwise specified, all communications and reports concerning

the regulations in this part and applications filed under them should be sent by mail addressed to: Attn: Document Control Desk, Director, Office of Nuclear Reactor Regulation (or Director, Office of Nuclear Material Safety and Safeguards, as appropriate), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

140. In § 73.57, paragraph (a)(2), the first and second sentences of paragraph (d)(1), the second and fourth sentences of paragraph (d)(2), the second and third sentences of paragraph (d)(3), and paragraphs (d)(4) and (f)(5) are revised to read as follows:

§ 73.57 Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees.

(a) * * *

(2) Each applicant for a license to operate a nuclear power reactor under Part 50 of this chapter shall submit fingerprints for those individuals who have or will have access to Safeguards Information.

* * * * *

(d) * * *

(1) For the purpose of complying with this section, licensees shall, using an appropriate method listed in § 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T-6E46, two completed, legible standard fingerprint cards (Form FD-258, ORIMDNRCOOOZ) or, where practicable, other fingerprint record for each individual requiring unescorted access to the nuclear power facility or access to Safeguards Information, to the Director of the NRC's Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing to the

Publishing Services Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, by calling the branch at (301) 415-5877, or by e-mail to forms@nrc.gov. Guidance on what alternative formats might be practicable is referenced in § 73.4.

* * *

(2) * * * Any Form FD-258 or other fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. * * * The one free resubmission must have the initial (rejected) fingerprint cards or other records attached. * * *

(3) * * * Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC" (for guidance on making electronic payments, contact the Personnel Security Branch, Division of Facilities and Security, at (301) 415-7404). The amount of the fee is the user fee for processing fingerprints submitted by the Nuclear Regulatory Commission on behalf of nuclear power plants charged by the FBI for each fingerprint card or other fingerprint record. * * *

(4) The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history checks, to include the FBI fingerprint record.

* * * * *

(f) * * *

(5) The licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, on an individual (including data indicating no record) for 1 year after termination or denial of unescorted access to the nuclear power facility or access to Safeguards Information.

141. In § 73.71, the first sentence of paragraph (a)(4) is revised to read as follows:

§ 73.71 Reporting of safeguards events.

(a) * * *

(4) The initial telephonic notification must be followed within a period of 30 days by a written report submitted to the NRC by an appropriate method listed in § 73.4. * * *

* * * * *

142. In § 73.72, paragraphs (a)(1), (a)(4), and (a)(5) are revised to read as follows:

§ 73.72 Requirement for advance notice of shipment of formula quantities of strategic special nuclear material, special nuclear material of moderate strategic significance, or irradiated reactor fuel.

(a) * * *

(1) Notify in writing the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, using any appropriate method listed in § 73.4;

(4) Notify the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, by telephone at (301) 415-8524 at least 10 days before the shipment commences at the shipping facility that an advance notice has been sent; and

(5) Notify the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, by telephone at (301) 415-8524 of any changes to the shipment itinerary.

* * * * *

143. In § 73.73, paragraphs (a)(1) and (b) are revised to read as follows:

§ 73.73 Requirement for advance notice and protection of export shipments of special nuclear material of low strategic significance.

(a) * * *

(1) Notify in writing the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, using any appropriate method listed in § 73.4;

(b) A licensee who needs to amend a written advance notification required by paragraph (a) of this section may do so by telephoning the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, at (301) 415-8524.

144. In § 73.74, paragraphs (a)(1) and (b) are revised to read as follows:

§ 74.74 Requirement for advance notice and protection of import shipments of nuclear material from countries that are not party to the Convention on the Physical Protection of Nuclear Material.

(a) * * *

(1) Notify in writing the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, using any appropriate method listed in § 73.4;

(b) A licensee who needs to amend a written advance notification required by paragraph (a) of this section may do so by telephoning the Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, at (301) 415-8524.

* * * * *

145. Appendix A to Part 73 is revised to read as follows:

APPENDIX A TO PART 73—U.S. NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

	Address	Telephone (24 hour)	E-mail
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, Region I, 475 Allendale Road, King of Prussia, PA 19406.	(610) 337-5000 (FTS) 346-5000	<i>RidsRegion1MailCenter@nrc.gov</i>
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, Region II, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, GA 30303.	(404) 562-4400 (FTS) 346-5000	<i>RidsRegion2MailCenter@nrc.gov</i>
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.	USNRC, Region III, 801 Warrenville Road, Lisle, IL 60532.	(708) 829-9500 (FTS) 829-9500	<i>RidsRegion3MailCenter@nrc.gov</i>
Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific.	USNRC, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011.	(817) 860-8100 (FTS) 728-8100	<i>RidsRegion4MailCenter@nrc.gov</i>

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

146. The authority citation for Part 74 is revised to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

147. In § 74.6, paragraphs (a) and (b) are revised and paragraph (c) is added to read as follows:

§ 74.6 Communications.

* * * * *

(a) By mail addressed to: Attn: Document Control Desk, Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(b) By hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland.

(c) Where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

148. In § 74.15, the third sentence in paragraph (a) is revised to read as follows:

§ 74.15 Nuclear material transfer reports.

(a) * * * Copies of these instructions (NUREG/BR-0006 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees") may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, by e-mail RidsNmssFcsc@nrc.gov, or by calling (301) 415-7213. * * *

149. In § 74.17, the last sentences of paragraphs (a) and (b) are revised to read as follows:

§ 74.17 Special nuclear material physical inventory summary report.

(a) * * * Using an appropriate method listed in § 74.6, the licensee shall report the inventory results by plant and total facility to the Director of the NRC's Office of Nuclear Material Safety and Safeguards.

(b) * * * Using an appropriate method listed in § 74.6, the licensee shall report the inventory results by plant and total facility to the Director of the NRC's Office of Nuclear Material Safety and Safeguards.

150. In § 74.57, the first sentence of the introductory text of paragraph (c) and paragraph (f)(2) are revised to read as follows:

§ 74.57 Alarm resolution.

* * * * *

(c) Each licensee shall notify the NRC Operations Center by telephone on (301) 816-5100 of any MC&A alarm that

remains unresolved beyond the time period specified for its resolution in the licensee's fundamental nuclear material control plan. * * *

* * * * *

(f) * * *

(2) Within 24 hours, the licensee shall notify the NRC Operations Center by telephone on (301) 816-5100 that an MC&A alarm resolution procedure has been initiated.

151. In § 74.59, paragraph (f)(1)(iii) is revised to read as follows:

§ 74.59 Quality assurance and accounting requirements.

* * * * *

(f) * * *

(1) * * *

(iii) Investigate and report, by an appropriate method listed in § 74.6, to the Director, Office of Nuclear Material Safety and Safeguards, any difference that exceeds three times the standard deviation determined from the sequential analysis;

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

152. The authority citation for Part 75 is revised to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

153. In § 75.6, paragraph (c) is revised to read as follows:

§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

* * * * *

(c) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: Attn: Document Control Desk; Director, Office of Nuclear Reactor Regulation (or Director, Nuclear Materials Safety and Safeguards, as appropriate), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

* * * * *

PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

154. The authority citation for Part 76 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106 Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321-349 (42 U.S.C. 2201, 2297b-11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243(a)); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 76.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 76.22 is also issued under sec. 193(f), as amended, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243(f)). Section 76.35(j) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

155. Section 76.5 is revised to read as follows:

§ 76.5 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed to: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and

Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand-delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. Copies of the communications should be sent to the NRC Region III Office (shown in Appendix D to Part 20 of this chapter) and to the appropriate Resident Inspector.

156. In § 76.7, paragraph (e)(3) is revised to read as follows:

§ 76.7 Employee protection.

* * * * *

(e) * * *

(3) Copies of NRC Form 3 may be obtained by writing to the NRC Region III Office listed in Appendix D to Part 20 of this chapter, from the Publishing Services Branch at (301) 415-5877, via e-mail to forms@nrc.gov, or by accessing the NRC Website at <http://www.nrc.gov> and selecting forms from the index found on the home page.

* * * * *

157. In § 76.33, paragraph (a)(1) is revised to read as follows:

§ 76.33 Application procedures.

(a) * * *

(1) An application for a certificate of compliance must be tendered by filing the application with the Director of the NRC's Office of Nuclear Material Safety and Safeguards, with copies sent to the NRC Region III Office and appropriate resident inspector, in accordance with § 76.5. If the application is on paper or CD-ROM, 20 copies must be filed with the Director. If submitted electronically, see Guidance for Electronic Submission to the Commission at <http://www.nrc.gov/site-help/eie.html>.

* * * * *

158. In § 76.120, the third sentence of the introductory text of paragraph (d)(2) is revised to read as follows:

§ 76.120 Reporting requirements.

* * * * *

(d) * * *

(2) * * * These written reports must be sent to the NRC by an appropriate method listed in § 76.5. * * *

* * * * *

PART 81—STANDARD SPECIFICATIONS FOR THE GRANTING OF PATENT LICENSES

159. The authority citation for Part 81 is revised to read as follows:

Authority: Sec. 156, 161, 68 Stat. 947, 948, as amended (42 U.S.C. 2186, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

160. Section 81.3 is revised to read as follows:

§ 81.3 Communications.

All communications concerning the regulations in this part, including applications for licenses, should be sent to the NRC either by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

PART 95—FACILITY SECURITY CLEARANCE AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

161. The authority citation for Part 95 is revised to read as follows:

Authority: Secs. 145, 161, 193, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); E.O. 10865, as amended, 3 CFR 1959-1963 Comp., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 391.

162. Section 95.9 is revised to read as follows:

§ 95.9 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part should be addressed to the Director of the NRC's Division of Facilities and Security, Mail Stop T-7D57, and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

163. In § 95.19, the second sentence of the introductory text of paragraph (a) is revised to read as follows:

§ 95.19 Changes to security practices and procedures.

(a) * * * A written description of the proposed change must be furnished to the CSA and the NRC Regional Administrator of the cognizant Regional Office listed in Appendix A to Part 73 of this chapter, and, if the NRC is not the CSA, also to the Director of the Division of Facilities and Security in the NRC's Office of Administration; the communications to NRC personnel should be by an appropriate method listed in § 95.9. * * *

* * * * *

164. In § 95.45, the second sentence of paragraph (a) is revised to read as follows:

§ 95.45 Changes in classification.

(a) * * * Requests for downgrading or declassifying any NRC classified information should be forwarded to the NRC's Division of Facilities and Security, in the Office of Administration, using an appropriate method listed in § 95.9. * * *

* * * * *

PART 100—REACTOR SITE CRITERIA

165. The authority citation for Part 100 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 68 Stat. 936, 937, 948, 953, as amended (42

U.S.C. 2133, 2134, 2201, 2232); sec. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

166. Section 100.4 is revised to read as follows:

§ 100.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed to: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information. Copies should be sent to the appropriate Regional Office and Resident Inspector.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

167. The authority citation for Part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154-2158, 2201, 2231-2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101-575, 104 Stat. 2835 (42 U.S.C. 2243); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96-92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d, 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99-440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80-110.113 also

issued under 5 U.S.C. 552, 554. Sections 110.130-110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102-496 (42 U.S.C. 2151 *et seq.*).

168. Section 110.4 is revised to read as follows:

§ 110.4 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be addressed to the Deputy Director of the NRC's Office of International Programs, either by telephone to (301) 415-2344; by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

169. In § 110.31, paragraph (a) is revised to read as follows:

§ 110.31 Application for a specific license.

(a) A person shall file an application for a specific license to export or import with the Deputy Director of the NRC's Office of International Programs, using an appropriate method listed in § 110.4.

* * * * *

170. In § 110.131, paragraph (a) is revised to read as follows:

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking should be addressed to the Secretary of the Commission, for the attention of the Secretary's Rulemakings and Adjudications Staff. The petition should be sent using an appropriate method listed in § 110.4.

* * * * *

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

171. The authority citation for Part 140 is revised to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210);

secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

172. Section 140.5 is revised to read as follows:

§ 140.5 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed to: Attn: Document Control Desk; Director, Office of Nuclear Reactor Regulation (or Director, Office of Nuclear Material Safety and Safeguards, as appropriate), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

173. In § 140.6, the first sentence of paragraph (a) is revised to read as follows:

§ 140.6 Reports.

(a) In the event of bodily injury or property damage arising out of or in connection with the possession or use of the radioactive material at the location or in the course of transportation, or in the event any claim is made therefor, written notice containing particulars sufficient to identify the licensee and reasonably obtainable information with respect to the time, place, and circumstances thereof, or to the nature of the claim, shall be furnished by or for the licensee to the Director of the Office of Nuclear Reactor Regulation, or the Director of the Office of Nuclear Material Safety and Safeguards, as appropriate, using an appropriate method listed in § 140.5, but in any case as promptly as practicable. * * *

* * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

174. The authority citation for Part 150 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

175. Section 150.4 is revised to read as follows:

§ 150.4 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part should be sent by mail addressed: Attn: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, and sent either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

176. In § 150.16, the fourth sentence of paragraph (a) and paragraph (b)(2) are revised to read as follows:

§ 150.16 Submission to Commission of nuclear material transfer reports.

(a) * * * Copies of these instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-

0001, by e-mail RidsNmssFcass@nrc.gov, or by calling (301) 415-7213. * * *

(b) * * * (2) Within 15 days, the licensee shall follow the initial report with a written report that sets forth the details of the incident. The report must be sent by an appropriate method listed in § 150.4 of this part to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, with a copy to the appropriate NRC Regional Office, shown in Appendix A to Part 73 of this chapter.

* * *

177. In § 150.17, the second sentence of paragraph (a), the last sentence of paragraph (b), and the second and third sentences of paragraph (c) are revised to read as follows:

§ 150.17 Submission to Commission of source material transfer reports.

(a) * * * Copies of these instructions may be obtained either by writing the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001, by e-mail RidsNmssFcass@nrc.gov, or by calling (301) 415-7213. * * *

(b) * * * Copies of the reporting instructions may be obtained from the NRC's Division of Fuel Cycle Safety and Safeguards, in the Office of Nuclear Material Safety and Safeguards, by writing the Division at the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by e-mail RidsNmssFcass@nrc.gov, or by calling (301) 415-7213.

(c) * * * The initial report must be followed within a period of fifteen days by a written report that sets forth the details of the incident and its consequences. The report must be submitted using an appropriate method listed in § 150.4 to the Director of the NRC's Office of Nuclear Material Safety and Safeguards, with a copy to the appropriate NRC Regional Office, as shown in Appendix A to Part 73 of this chapter. * * *

* * *

178. In § 150.19, the second and third sentences of paragraph (c) are revised to read as follows:

§ 150.19 Submission to Commission of tritium reports.

* * *

(c) * * * The initial report must be followed within a period of fifteen days by a written report that sets forth the details of the incident and its consequences. The report must be submitted to the Director, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in

§ 150.4, with a copy to the appropriate NRC Regional Office as shown in Appendix A to Part 73 of this chapter.

* * *

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

179. The authority citation for Part 170 is revised to read as follows:

Authority: Sec. 9701, Pub. L. 97–258, 96 Stat. 1051 (31 U.S.C. 9701); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205a, Pub. L. 101–576, 104 Stat. 2842, as amended (31 U.S.C. 901, 902); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

180. Section 170.5 is revised to read as follows:

§ 170.5 Communications.

All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

181. The authority citation for Part 171 is revised to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by sec. 3201, Pub. L. 101–239, 103 Stat. 2132, as amended by sec. 6101, Pub. L. 101–508, 104

Stat. 1388, as amended by sec. 2903a, Pub. L. 102–486, 106 Stat. 3125 (42 U.S.C. 2213, 2214); sec. 301, Pub. L. 92–314, 86 Stat. 227 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

182. Section 171.9 is revised to read as follows:

§ 171.9 Communications.

All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415–6030, by e-mail to EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

Dated at Rockville, Maryland, this 21st day of August, 2002.

For the Nuclear Regulatory Commission,
Annette Vietti-Cook,
Secretary of the Commission.

Note: This appendix will not be printed in the Code of Federal Regulations

Appendix A—United States Nuclear Regulatory Commission (NRC) Guidance for Electronic Submissions to the Commission

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1.0 Introduction

1.1 Background

On September 6, 2002, the Nuclear Regulatory Commission (NRC) promulgated a direct final rule on electronic submission of information to the agency. This rule modified many NRC regulations to explicitly authorize electronic communications with the agency. The final rule stated that the NRC would issue specific guidance on acceptable procedures for electronic submissions. That guidance is contained in this document. This guidance document is the controlling source of information on electronic submissions to the NRC and supersedes NRC Regulatory Issue Summary 2001–05, Guidance on Submitting Documents to the NRC by Electronic Information Exchange or on CD-ROM, and the August 10, 2001, letter issued to certain fuel cycle facilities extending to them the option of electronic submissions in many instances. The NRC plans to update this guidance periodically to reflect changes in technology and agency experience. While the Commission encourages the submission

of electronic documents, submission of paper documents remains acceptable.

1.2 Scope

This guidance document governs the electronic submission of documents to the NRC. It includes the required procedures for corresponding electronically with the NRC via the Internet using Electronic Information Exchange (EIE), by CD-ROM, or by e-mail. It also includes procedures for corresponding by facsimile (fax). It does not address submission of other forms of electronic information (e.g., data files, computer models, and videos), and does not address outgoing NRC communications.

EIE software provides for the electronic submission of information to the NRC in a secure manner. It requires the use of digital signatures and certain software plug-ins. Procedures for acquiring a digital signature for communicating with the NRC via EIE can be found at Section 3.4, and procedures for acquiring the required software can be found at Section 3.5.

1.3 Applicable Transactions

Documents or other information submitted under oath or affirmation, or other documents where secure transfer is either required or appropriate, should be submitted over the Internet using EIE or submitted on CD-ROM. While e-mail is not appropriate for most submissions required by NRC regulations, e-mail may be used for certain other correspondence and communications with the NRC, such as rulemaking petitions and comments on rulemaking proceedings, collaborative communications with States and other Federal agencies, requests for enforcement actions under 10 CFR 2.206, and Freedom of Information Act (FOIA) requests and appeals, but not for information covered under the Privacy Act.

E-mail may be addressed to either specific individuals named as contacts in **Federal Register** Notices or other agency communications, or to the office specified in the regulation or communication specific to the document(s) being submitted; to addresses the NRC Web site provides for individual program offices or specific agency functions or services; or to the Office of Public Affairs. Individual program offices may be contacted through the NRC Web site at <http://www.nrc.gov> by selecting specific contact pages from "Contact Us" on the home page. The Office of Public Affairs may be contacted through the Contact Us on the home page or at OPA@nrc.gov (use upper case where indicated). Except for communications using EIE, the sender will not be e-mailed a confirmation of receipt of the submission.

1.3.1 Exceptions to Electronic Submission

All communications with the NRC may be submitted electronically via the Internet except for the following:

1. Classified information (i.e., National Security Information and Restricted Data), Safeguards Information, Sensitive Homeland Security Information, Privacy Information which is protected by the Privacy Act (5 U.S.C. 552(a)), Proprietary Information, or Official Use Only Information. This

information may only be submitted electronically on CD-ROM.

2. "Immediate" or "prompt" notifications to the NRC that NRC regulations require be made by telephone, telefax or telegram up to one week before or after an event (e.g., 10 CFR 30.50 or 30.55(c)).

3. Notice of filing of bankruptcy petition, whether voluntary or involuntary (e.g., 10 CFR 30.34(h)(1)).

4. Hearing requests, and documents pertaining to hearings or associated appeals, including, but not limited to, those associated with hearings conducted under 10 CFR Parts 2, 4, 10, 12, 13, 14, 16, 19, 25, 76, 81, 110, 140, and 150. Separate rules or guidance addressing procedures for electronic communications in hearings will be issued in the future for public comment, but it should be noted that the document format standards outlined in this guidance document subsequently may be determined to apply to documents submitted to agency adjudicatory dockets. It is conceivable that, as a result of a future rulemaking proceeding, the current format requirements in 10 CFR Part 2, Subpart J, for example, could be superseded by the document format standards presented in this guidance document. Accordingly, interested parties should consider the impact the approach outlined in this guidance could have on their preparation of materials for future submission. (Nothing in this guidance document precludes presiding officers from their current practice of authorizing electronic communications on a case-by-case basis.)

5. Documents served on the NRC as a participant in Federal Court proceedings or in non-NRC administrative proceedings (such as administrative proceedings before the Merit Systems Protection Board, unless electronic submission is authorized by rule or order issued by a Federal Court or Agency).

6. NRC contractor proposals or invoices submitted in response to specific contractual requirements. (Because Federal Acquisition Regulation guidance as contained in Section 30 of the Office of Federal Procurement Policy Act [41 U.S.C. 426] allows the Federal Government to use electronic commerce whenever practical, guidance for electronic submittal of proposals and invoices will be addressed in individual procurements. Further guidance for submission of these documents will be issued at a later date.)

7. Financial assurance instruments to meet decommissioning cost requirements and prescribed by regulation at 10 CFR 30.35(e), 40.36(e), and 70.25(f) (including surety bonds, letters of credit, lines of credit, and insurance).

8. Documents with special attributes. (See section 2.7)

9. Fingerprint cards (Form FD-258, OR1MDNRC000Z) required for criminal history checks under 10 CFR 73.57.

1.3.2 Electronic Forms and Payments

Each form referred to in the NRC regulations can be found on the NRC Web site at <http://www.nrc.gov> in PDF format for viewing and printing by selecting "Forms" from the Index found on the home page and Selecting the specific form required.

Financial payments required by regulations can be submitted electronically. Copies of NRC Form 628 to establish financial authorization electronically can be found at the NRC Web site at <http://www.nrc.gov> by selecting "Forms" from the index found on the home page. Payments by credit card of Part 171 annual fees, Part 170 licensing and inspection fees, civil penalties and other fees, may be done by completing the authorization form included with the invoice or civil penalty. A copy of the form may be printed from the NRC Web site at <http://www.nrc.gov> by selecting "Forms" from the index found on the home page and selecting "NRC Form 629, Authorization for Payment by Credit Card."

1.3.3 Submissions Requiring Oath or Affirmation

Submissions requiring oath or affirmation may be submitted electronically using EIE or on CD-ROM. (See Sections 3.6 and 4.3.2 of this guidance document). These include the following:

1. Documents that by statute must be submitted under oath or affirmation (e.g., Section 182 of the Atomic Energy Act of 1954, as amended, 42 USC 2232). Generally, oath or affirmation requirements exist for applications for a license, amendments to a license, some licensee responses to Notices of Violation (NOV), and certain letters of transmittal. The NRC's regulations in 10 CFR Parts 2 and 50 implement these statutory requirements, and certain regulations require an oath or affirmation for submission of documents (see, e.g., 10 CFR 50.54(f) and 10 CFR 50.30(b)).

2. Documents that must be sent by certified mail (e.g., 10 CFR Part 30, Appendix A II. C. 2).

1.3.4 10 CFR Part 2 Submissions

Rulemaking petitions, comments filed in rulemaking proceedings (10 CFR Part 2, Subpart H), and requests for enforcement action under 10 CFR 2.206 may be submitted via EIE, CD-ROM, or e-mail. Other documents submitted pursuant to 10 CFR Part 2, Subpart B, "Procedure for Imposing Requirements By Order, or for Modification, Suspension, or Revocation of a License, or for Imposing Civil Penalties," may be submitted via EIE or CD-ROM. Submission of all other documents covered under Part 2 are excluded from the scope of this guidance document. Separate rules or guidance addressing procedures for electronic communications in hearings will be issued in the future for public comment, but it should be noted that the document format standards outlined in this guidance document subsequently may be determined to apply to documents submitted to agency adjudicatory dockets. It is conceivable that, as a result of a future rulemaking proceeding, the current format requirements in 10 CFR Part 2, Subpart J, for example, could be superseded by the document format standards presented in this guidance document. Accordingly, interested parties should consider the impact the approach outlined in this guidance could have on their preparation of materials for future submission.

1.3.5 Freedom of Information Act and Privacy Act Requests

All Freedom of Information Act (FOIA) requests and appeals may be submitted electronically by EIE, CD-ROM, or e-mail. Privacy Act requests cannot be submitted electronically because additional identification is required before the agency will process the request. See 10 CFR 9.54.

2.0 Parameters for Electronic Files Submitted to the NRC

Unless otherwise noted in the sections detailing the mode of submission which

follow, all electronic documents submitted to the NRC should meet the file format specifications delineated in this section. These specifications also apply to all enclosures or attachments that are documents as well. Note: any electronic file that can be converted to PDF format (spread sheets, slide presentations, etc.) are considered documents by the NRC and are subject to these specifications.

Submittals may also contain other forms of electronic information including data files, computer models, and video or audio clips that are not considered documents. These

files are not required to conform to the file format specifications established for documents.

2.1 File Formats

The acceptable file formats for submitting documents via EIE, CD-ROM, and e-mail with the associated versions, default file extensions, and preferred use are shown in the tables below.

File format	Version	Filename extension	Preferred use
Adobe ® Portable Document Format (PDF) Formatted Text and Graphics (Formerly known as PDF Normal)***	4.05 or earlier	pdf	Text-oriented documents converted from native applications.
Adobe ® PDF Searchable Image (Exact) (formerly known as PDF Original Image with Hidden Text)	4.05 or earlier	pdf	Text-oriented documents converted from scanned documents.
PDF Image Only	4.05 or earlier	pdf	Preferred format for graphic/image-oriented documents.
Multi-page TIFF	CCITT T.6 Group 4 or CCITT T.5 Group 4.	tif	Alternate format for graphic/image-oriented documents.

* Preferred formats generated using Adobe® products.

** Not acceptable for conversion of scanned documents.

Note: Adobe has recently established a fourth PDF format (PDF Searchable Image (Compact)) that uses compression techniques to reduce file sizes of images. This is not an acceptable format for submission to the NRC.

In most cases the NRC recommends that spreadsheet applications also be converted to one of the acceptable PDF file formats.

However, spreadsheets that are submitted to the NRC so that the NRC staff can use the data to perform additional calculations/

analyses using the native software applications may be submitted using the following acceptable formats.

File format	Version	Filename extension	Preferred use
Microsoft ® Excel®	97 or earlier	xls	Spread Sheet calculations.
Corel® QuattroPro	8 or earlier	wb3	Spread Sheet calculations.
Lotus® 1-2-3	9 or earlier	wk3/wk4	Spread Sheet calculations.

When submitting the electronic file using one of the acceptable formats listed in the tables above, do not change the default, three-character extension for the file (*e.g.*, a document prepared as "license amendment.pdf" should be submitted with the ".pdf" file extension).

2.2 Naming Conventions

Documents submitted to the NRC using CD-ROM or e-mail must:

(1) Have filenames that are limited to 116 characters in length (including the "." and the three-character filename extension).

(2) Retain the default three-character file extension associated with the format in which the document was created (Example: for files created to conform to Adobe's Portable Document Format, ".pdf"; for files created to conform to the Tagged Image Format, ".tif").

(3) Include a three-digit numeric prefix (*e.g.*, 001, 002, 003) in the filename that designates the correct order of the files contained in the submission, followed by the name of the file (Example: "001document name of first document.pdf").

Documents submitted to the NRC via EIE (see Section 3.0) do not need special file naming

conventions. Documents submitted via EIE should have file names that conform to items (1) and (2) above. In addition, documents submitted using EIE are programmatically provided a naming convention which designates the order of the files contained in the submission and a date of receipt for each file.

2.3 File Size Limitations

Large size files create challenges for both the NRC staff and the public when viewing or downloading the documents. Therefore, the NRC requests that submitters make every effort to limit the file size of electronic submittals. For example, when generating documents for submission, files should be created using logical breaks in the document (*e.g.*, file broken up into individual chapters). Although the CD-ROM may contain the maximum number of MBs possible, it is necessary to try to limit each individual file on the CD to 20 MB or less. The maximum file size that can be submitted to the NRC also depends on the method of transmission. The use of compression techniques (zipped files, downsized files, etc.) is not allowed for electronic files submitted to the NRC. The

table below summarizes the size limitations based on the method of file transmission:

Method of transmission	File size limitations
Electronic Information Exchange (EIE).	Less than or equal to 25MB†
CD-ROM	20MB or less per individual file on CD†
E-mail	Less than or equal to 10MB†

†Total, combined size of message and attachments.

††The total CD capacity may be used but submitters are urged to limit individual files to 20MB or less.

2.4 Security/Access Settings

Submissions should not contain any security settings, password protections, or any other attributes that will exclude full NRC access to and use of the files. NRC's internal security and archival processes will maintain the integrity of the materials that are submitted.

2.5 Resolution

Tagged Image File Format (TIFF) or PDF documents must be created using the following resolution guidelines:

TIFF formatted documents	PDF formatted documents ^{a,b}
<ul style="list-style-type: none"> • Bi-tonal (black and white) TIFF resolution, 300 dpi. • Color TIFF resolution, 200 dpi. • Grayscale TIFF resolution, 200 dpi. 	<ul style="list-style-type: none"> • Bi-tonal (black and white) PDF resolution, 300 dpi. • Color PDF resolution, 200 dpi. • Grayscale PDF resolution, 200 dpi.

^aPDF files containing scanned images of text, in PDF Original Image with Hidden Text format, or PDF Normal files containing images of text are unrecognized by the Optical Character Recognition (OCR) conversion process because they represent non-textual information. Documents containing integrated images of text inserted in textual documents will not be accepted.

^bAdobe® Acrobat® "downsampling" may result in images with resolutions less than acceptable for submission to the NRC. Therefore, its use is not permitted.

2.6 Use of Color

The NRC discourages the use of color because it significantly increases file size. If the use of color adds no value to the understanding of the information presented, its use should be avoided. If color is required to make the document understandable, its limited use is acceptable. Examples of color documents that meet this criteria are graphs, bar-charts, and engineering drawings that depend exclusively on the differences in color to understand the information and data being presented.

2.7 Files With Special Attributes

Documents that contain electronic files with special attributes present many challenges when trying to manage them in an electronic environment. The NRC currently does not have the technical capability to quickly and cost-effectively reproduce documents with special printing requirements (such as requiring the use of a plotter or other special equipment to print) or other enhancements such as 3D images, etc. Therefore, if a person chooses to submit documents with special attributes electronically, he or she must submit the number of CD-ROMs required by the regulations, plus one paper copy.²

2.8 File Linkages

Files containing objects (e.g., pictures, tables, spreadsheets, and images of text) using link protocols such as Object Linking and Embedding (OLE), Dynamic Data Exchange (DDE), or any other object linking are not practicable for the NRC to accept.

2.9 Viruses

Files received by the NRC will be checked for viruses prior to acceptance. Any submission that contains a virus will be returned to the submitter.

²No documents with special attributes will be accepted via EIE.

2.10 Macros

Macros in files such as Microsoft® Excel are sometimes detected as viruses. Therefore, the use of macros should be limited because a file identified as having a virus will be returned to the submitter.

2.11 Copyrighted Information

Except as provided below, submitting information electronically to the NRC through the EIE process shall be deemed to constitute authority for the NRC to place a copy of the information on its public document database and to reproduce and distribute sufficient copies to carry out its official responsibilities. Any person submitting information shall be deemed to represent to the NRC that he or she has legal authority to submit the document and to permit NRC to reproduce and distribute the document, and shall hold the NRC harmless from damages that result from the NRC's reproducing or distributing the documents.

If a document contains a copyright notice, or is accompanied by any other statement restricting reproduction, NRC will not accept the information electronically unless the submitter provides an explicit statement authorizing the NRC to make copies of the material in accordance with this guidance. If the submitter lacks authority to permit NRC to reproduce the document, NRC will not accept the information electronically until the submitter provides written authorization from the copyright owner for the NRC to make copies of the material in accordance with this guidance.

NRC use of the information specified herein does not constitute authority for others to use the information outside applicable requirements of copyright law.

2.12 Copies

Licensees and vendors submitting documents via EIE do not need to send confirming hard copies of the electronic documents. Licensees, applicants, and members of the public submitting documents on CD-ROM are required to submit as many copies as required by the applicable agency regulation or order and accompanied by one paper copy as well. This is because the agency does not have the capability to reproduce paper copies of these submissions cost effectively or rapidly enough to meet the needs of the NRC and the public. However, as the technology evolves and the NRC staff gains more experience processing and reproducing documents in the electronic environment, and becomes more comfortable working in an electronic environment, NRC will reassess this approach and modify the guidance document, as appropriate.

3.0 Guidance for EIE Submissions

3.1 Who Can Participate

The participant population includes applicants, licensees, external entities (including Federal, State, and Local governments), and vendors who are required to submit documents to the NRC. The EIE is designed to ensure that electronic documents can be transmitted via the Internet in a secure and unalterable manner. Submittals such as those that are required to be submitted under oath or affirmation may be safely transmitted

via the Internet. Applicants, licensees, vendors *etc.* will designate individual users who have the responsibility for originating, signing, or sending documents to the NRC in compliance with regulatory requirements.

3.2 How To Register

The NRC provides for overall administration of the EIE process through the designated Local Registration Authority (LRA). The LRA creates and maintains an Authorized Certificate List (ACL) consisting of authorized internal and external EIE participants. Each participant must send an ACL containing the name and e-mail addresses of individuals who will be submitting digitally signed documents to the NRC. The ACL must be sent to the NRC in a signed paper form to the following address: Local Registration Authority (T6 C30), Electronic Information Exchange, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Upon receipt of the ACL, the NRC will e-mail to each individual named a unique personal identification number (PIN) to be used in applying for a digital certificate. Once received, the digital certificate will then enable individual users to digitally sign documents and submit them in a secure manner. The PIN number will be sent approximately 3 to 5 business days after receipt of the ACL. Participants may add or delete names from the ACL by written notification to the NRC using the above address. The LRA will use the ACL to validate authorized individuals requesting digital signature certificates. The LRA may be contacted via e-mail at EIE@nrc.gov.

3.3 What Is Needed To Participate

Participating individuals in the EIE initiative may use their existing workstations with standard desktop configuration. The recommended workstation configuration requires a Pentium 133 MHZ (or higher) with a minimum of 32 MB of RAM, 20 MB of available disk space, and access to the World Wide Web (Web) through an Internet Service Provider (ISP). The operating system should be either Windows NT or Windows 95 (or higher). In addition, each workstation must be equipped with browser software, consisting of either Netscape Navigator or Communicator (version 4.6 or higher) or Microsoft Internet Explorer (version 5.0 or higher). Other browser types, such as AOL or Mosaic, are not currently supported for use in the EIE system.

In order to utilize EIE, each individual must obtain a digital signature certificate (Digital ID). (See Section 3.4 of this guidance document.) Additionally, there are software plug-ins that must be downloaded and installed. In the subsequent sections, each process and step required to setup a computer or workstation to use EIE is described. The processes and steps described are specific to both Netscape Navigator/Communicator 4.6 or higher and Microsoft Internet Explorer 5.0 or higher.

3.4 How To Obtain a Digital Signature Certificate

All users must have a Digital ID in order to use EIE. A Digital ID is used to submit and digitally sign the form used to submit

documents and will be required in order to access the EIE external server to retrieve documents, if appropriate. The EIE system requires the use of an NRC-issued Digital Certificate.

To obtain a Digital ID, authorized participants must first complete and submit an enrollment form. VeriSign, Inc. acts as the NRC's Certificate Authority (CA) and provides the NRC with a Digital Certificate (ID) enrollment page on their Web site. The NRC provides VeriSign Onsite Digital Certificates (ID's) at no cost. The steps for obtaining a Digital Certificate are provided on the EIE home page at <http://www.nrc.gov/site-help/eie.html>. After accessing the EIE home page, click on the "Request / Retrieve Certificate" hyperlink and follow the step-by-step prompts.

3.5 How To Obtain Software Plug-Ins

In order to utilize the EIE system, users will need to download and install two software plug-ins. The software plug-ins required are browser-dependent and can be obtained from the EIE home page on the NRC Web site at (<http://www.nrc.gov/site-help/eie.html>). The specific plug-ins required are the Internet Form Viewer, which is a required plug-in regardless of the browser used, a signaturing plug-in for Netscape users, and a separate viewer plug-in for Microsoft Explorer users. To successfully download and install the plug-ins, simply go to the EIE home page and click on the "EIE Start Up" hyperlink and follow the step-by-step procedures provided.

3.6 How To Submit Documents

Documents eligible for submission to the NRC are restricted to specific formats. No documents with special attributes (e.g., documents with special printing requirements, such as requiring the use of a plotter or other special equipment to print) or other enhancements such as 3D images, etc. will be accepted via EIE. The acceptable formats for electronic submission via EIE are listed in Section 2.1 above. The submission of documents to the NRC using EIE will require the use of the NRC's EIE form. The EIE form is a document based on Extensible Mark-up Language (XML). It allows participants to sign, enclose, submit, and verify documents via the Internet. The document to be submitted or transmitted must be presented as an enclosure to the form. The form can be accessed by going to the NRC Web site at (<http://www.nrc.gov/site-help/eie.html>). Once there, select the "Submit/Retrieve" hyperlink and click on "Go to Form."

Once the form is displayed, users will need to fill in the fields on the form and attach the document(s) for submission to the NRC. Once the fields have been filled in and the intended documents are attached, the form must be digitally signed.

Documents submitted electronically using EIE do not need to be digitally signed by the author(s). They may be digitally signed by the person who transmits them, but the author(s) are accountable for the content of the document(s) submitted. Generally, the persons who will digitally sign documents and transmit them electronically to the NRC

are the same persons who currently dispatch licensing documents through the mail to the NRC. Licensees and vendors submitting documents via EIE do not need to send confirming hard copies of the electronic documents.

NRC regulations require that some documents be filed under oath or affirmation. If such a document is transmitted electronically using EIE, it must conclude with a statement to this effect:

"I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]."

The electronic document must be digitally signed by the person affirming this statement. This person may then transmit the document directly to the NRC using EIE or may forward the document to someone else for transmission to the NRC. In the latter case, the transmitter must also digitally sign the document.

Documents transmitted to the NRC electronically using EIE will be time- and date-stamped when the last bit of the transmittal is received by the EIE server. The time and date of the transmission will become part of the record in the NRC's Agencywide Documents Access and Management System (ADAMS). The transmitter will be e-mailed a notice of receipt of the document. The notice will include the time and date the transmission was received at the NRC.

Submission of documents via EIE satisfies agency submittal requirements. The submitter need not send additional copies to NRC regions or other agency offices.

For more detailed information and step-by-step procedures on how to submit documents to the NRC using EIE, see the "EIE Submittal Procedures" on NRC's Web site at <http://www.nrc.gov/site-help/eie.html>.

3.7 Where To Submit Documents

Documents submitted using EIE are automatically sent to the NRC Document Processing Center for processing into ADAMS. No additional information is necessary, except for submittals intended for a Region. Submissions intended for the Regions should have the Region(s) listed in the comment box contained on the submission form.

3.8 Additional User Assistance (References and Contact Information)

Additional information, as well as detailed user guides can be obtained from NRC's Web site at (<http://www.nrc.gov/site-help/eie.html>).

Should you have any questions, please contact the Local Registration Authority (LRA) at (301) 415-6030 or by e-mail at EIE@nrc.gov.

4.0 Guidance for CD-ROM Submissions

4.1 Who Can Participate

This guidance is intended for licensees, applicants, external entities (including Federal, State, and Local governments), vendors, and members of the public who submit documents to the NRC.

4.2 What Can Be Submitted

Documents may be submitted via CD-ROM, except as noted in Section 1.3.1 above.

As mentioned in Section 1, there are also documents that should only be submitted using CD-ROM, such as large documents exceeding 15 megabytes. *However, documents that are submitted on CD-ROM must also be submitted with one paper copy.* Also, documents containing Classified information (i.e., National Security Information and Restricted Data), Safeguards Information, Privacy Information which is protected by the Privacy Act (5 U.S.C. 552(a)), Proprietary Information, or Official Use Only Information may only be submitted electronically on CD-ROM and not via EIE or e-mail.

4.3 How To Submit CD-ROMs to the NRC

Each CD-ROM submission must be transmitted by a signed letter in paper format. Documents submitted pursuant to NRC regulations must cite the relevant regulations in either the subject line or the first paragraph of the transmittal letter. The transmittal letter must include the name, phone number, mailing, and e-mail address of a contact person who can respond to questions about the submission. In addition, if there are any special instructions regarding the use of the CD-ROM (e.g., how to open the files, access the publication, etc.), they should be included as part of the transmittal letter. When a CD-ROM contains multiple documents, the transmittal letter must identify each document contained on the CD-ROM. The transmittal letters for CD-ROMs containing Classified Information (i.e., National Security Information and Restricted Data) must be marked in accordance with 10 CFR 95.37 and mailed to the NRC Classified mailing address. If the CD-ROM contains sensitive or non-public documents, the additional requirements in Section 4.3.1 apply.

CD-ROM submissions of documents must be accompanied by one paper copy as well. This is because the agency does not have the capability to reproduce paper copies of these submissions cost effectively or rapidly enough to meet the needs of the NRC and the public. However, as the technology evolves, and staff becomes more comfortable working in an electronic environment, NRC will reassess this approach and modify the guidance document, as appropriate.

4.3.1 Sensitive or Non-Public Documents

The sensitivity level of the transmitted documents must be included on the first page of the accompanying transmittal letter. Documents containing Classified Information (i.e., National Security Information and Restricted Data), Safeguards Information, Sensitive Homeland Security Information, Privacy Act Information, Proprietary Information, or Official Use Only Information should be submitted in a CD-ROM version intended for internal NRC review only. (This information may only be submitted electronically on CD-ROM, but not via EIE or e-mail. Detailed guidance on withholding Sensitive Homeland Security Information is contained in COMSECY-02-0015, which can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/reading-rm> and selecting "COMSECY-02-0015".) NRC regulations will prescribe how many copies are to be submitted. If the CD-ROM contains

non-public information, the submitter shall provide the NRC with the prescribed number of copies of the complete material, plus one CD-ROM containing only the publicly available information. This CD-ROM must be clearly labeled "Publicly Available Information." Thus, if an applicant is required to submit 15 copies, it would send 15 CD-ROM copies of the complete material containing both the public and the non-public document and one additional CD-ROM containing only the publicly available information for placement in the agency's PDR, and one paper copy of the complete material and one paper copy containing only the publicly available information.

4.3.2 Oath or Affirmation

NRC regulations require that some documents be filed under oath or affirmation. If such a document is submitted on CD-ROM, the transmittal letter must contain the oath and the signature of the person swearing to the accuracy of the information submitted. Specifically, the letter must include the following statement with the signature of the person affirming it:

"I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]"

4.3.3 Living Documents

Many large documents historically submitted to the NRC have been maintained as living documents and have used a page-replacement strategy for update. In the electronic environment this approach is not practicable. Consequently, if a submitter chooses to use electronic submission of these documents, all subsequent updates must be performed on a total-replacement basis. The updated version must include a list of changed pages and each changed page must include both a change indicator for the area changed, for example a bold line vertically drawn in the margin adjacent to the portion actually changed, and a page change identification (date of change or change number or both).

4.3.4 CD-ROM File Format

The acceptable file formats are stated in Section 2.1. However, for text-oriented documents, the preferred file formats are Portable Data Format (PDF) Normal and PDF Original Image with Hidden Text. PDF Image Only is preferred for submission of graphic image documents. PDF files and TIFF files should be scanned at the resolutions stated in Section 2.5 of this document.

Large documents made up of multiple files, folders, etc., often require the inclusion of a search engine on the CD-ROM to facilitate navigation, search, and retrieval of the document. The inclusion of the search engine enables the user to access the material contained on the CD-ROM without having to rely on other software in the users' resident environment. The NRC encourages the inclusion of these search engines to facilitate the use of the materials in stand-alone mode. However, only those products that do not require the end-user to purchase a license to use are acceptable.

4.3.5 Packaging/Labeling

When submitting documents that contain both publicly and non-publicly available files, all of the files should be included on a CD-ROM. In addition, a separate CD-ROM must be provided that contains only the publicly available files. Each CD-ROM must be clearly labeled indicating its availability. CD-ROMs labeled as "Publicly Available" will be released to the public (sent to the Public Document Room, where they are available for inspection and copying). The mailing package containing CD-ROMs with documents comprised of Safeguards, Proprietary, or Privacy Act Information must be marked in accordance with the requirements set forth in 10 CFR 2.790(b) and 73.21(e). The mailing package forwarding CD-ROMs containing Classified Information must be submitted to NRC in accordance with the requirements contained in 10 CFR 95.39.

4.3.6 Rejection of Submissions

It is not practicable for the NRC to accept:

- Any submission that contains a virus.
- Files submitted that are compressed.
- File formats other than those listed in Section 2.1.
- CD-ROMs that contain both publicly and non-publicly available files on a single CD, unless a second CD with only publicly available information is also provided.
- CD-ROMs containing OLE (Object Linking and Embedding), DDE (Dynamic Data Exchange), or any other object linking.

4.4 Where To Submit the CD-ROMs

Send CD-ROMs with transmittal letter to the mailing address specified in the regulation, order, or other document governing the submission of that particular application, report or correspondence.

4.5 Additional User Assistance (references and contact information)

Information can be found in the "CD-ROM Submittal Procedures", found in Related Information, by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>.

For assistance or to discuss problems with making CD-ROM submissions of electronic filings, contact the Document Processing Services Section at 301-415-2488 during the NRC's normal business hours (7:30 a.m. to 4:15 p.m. eastern time) or e-mail EIE@nrc.gov.

5.0 E-mail Submissions

5.1 Who Can Participate

This guidance is intended for licensees, applicants, external entities (including Federal, State, and Local governments), vendors and members of the public who submit documents to the NRC.

5.2 What Can Be Submitted

Documents (except for collaborative communications with States and other Federal agencies) submitted by e-mail, including the text of the e-mail, should contain only information that could be made available to the public and may be used for:

- Rulemaking petitions and comments in rulemaking proceedings.

- Requests for enforcement action under 10 CFR 2.206, which may be sent to 2206PETITIONS@NRC.GOV.

- FOIA requests and appeals (unless Privacy Act information is sought; review Section 1.3.5 for additional details).

- Responses to Federal Register Notices or other agency communications where NRC has provided a specific e-mail address.

Multiple document attachments are acceptable, but the e-mail cannot exceed the 10MB size limitation, and the e-mail must include the required information as listed in Section 5.4.

In addition, the NRC provides a listing of contacts on the NRC Web site at <http://www.nrc.gov> that can be used for a variety of e-mail communications to the agency by selecting "Contact Us" from the home page. Documents can be submitted by e-mail for the purposes identified on the Web site, and should be sent to the specific e-mail address provided for each form of communication.

5.3 Rejection of Submissions

File submissions that do not meet the parameters outlined in this document, especially as outlined in Section 2.0, will be rejected and will require re-submission. If the e-mail (with attachments) exceeds the 10 MB size requirement or contains a virus, the sender will receive an automated "Undelivered Mail" notice stating the reason for the delivery rejection.

If the documents do not comply with other file parameters outlined in Section 2.0 (e.g., unknown file format, compressed files, incorrect naming convention, corrupt/unreadable file or if it contains macros identified as potential viruses), the intended recipient may notify the addressee to re-submit the document(s). Finally, the body of the e-mail message/text must include the required information as listed in Section 5.4.

5.4 How To Send E-mail

Files sent via e-mail must be sent as an attachment to the e-mail message in order to retain the original formatting of the document(s). The e-mail message must include the name of a contact person who can respond to questions about the submission, along with the contact person's daytime phone number, mailing, and e-mail address. The e-mail must also identify/describe each document attached to the e-mail message. The format used to generate each of the identified file(s) must also be listed.

5.5 Where To Submit E-mail

E-mail may be addressed to either specific individuals named as contacts or to the office specified in the regulation or communication specific to the document(s) being submitted, to addresses the NRC Web site provides for individual program offices or specific agency functions or services, or to the Office of Public Affairs. Individual program offices may be contacted by using the addresses found at the NRC Web site at <http://www.nrc.gov>, and selecting "Contact Us" from the home page. The Office of Public Affairs may also be contacted through the "Contact Us" page or at OPA@nrc.gov. The Office of the Secretary of the Commission may be contacted at

2206PETITIONS@NRC.GOV for 2.206 petitions (use upper case where indicated). The sender will not be e-mailed a confirmation of receipt of the submission.

6.0 Facsimile (Fax) Submissions

6.1 Who Can Participate

This guidance is intended for licensees, applicants, external entities (including Federal, State, and Local governments), vendors and members of the public who submit documents to the NRC.

6.2 What Can Be Submitted

Documents (except for collaborative communications with States and other Federal agencies) submitted by fax should contain only information that could be made available to the public and may be used for:

- Rulemaking petitions and comments in rulemaking proceedings.
- Requests for enforcement action under 10 CFR 2.206.
- FOIA requests and appeals made directly to the FOIA and Privacy Act Officer (unless Privacy Act information is sought; review Section 1.3.5 for additional details).
- Responses to Federal Register Notices or other agency communications where NRC has provided for response by fax.
- Responses to NRC licensing-related questions.
- Information from export/import license applicants, and licensees.

6.3 How To Send Facsimiles (Faxes)

Faxes must include the name of a contact person who can respond to questions about

the submission, along with the contact person's daytime phone number and mailing or e-mail address.

6.4 Where To Submit Facsimiles (Faxes)

The NRC has established centralized receipt points (see listing of fax locations provided in Section 6.5) for official submissions transmitted by fax at each of the Regional Offices, the Office of International Programs, and NRC Headquarters. All official transmissions should be sent to one of these official receipt points to ensure that they are captured as official records of the agency.

6.5 Facsimile Locations and User Assistance

Location	Fax Number	User assistance and verification
Headquarters (24-Hour Operation)	301-415-7010 or 301-415-7020	301-415-7000
Office of International Programs	301-415-2395	301-415-1787
Office of the Secretary	301-415-1101	301-415-1966
Freedom of Information Act and Privacy Act Officer	301-415-5130	301-415-7169
Region 1	610-337-5324	610-337-5270
Region 2	404-562-4900	404-562-4827
Region 3	630-829-9886	630-810-4376
Region 4	817-860-8210	817-860-8100

7.0 Additional

Resources 7.1 User Assistance

To obtain general information about accessing documents filed electronically (viewing, printing, and downloading), contact the NRC Public Document Room (PDR) during business hours.

You may contact the PDR librarians by any of the following means:

Telephone: 1-800-397-4209 or 301-415-4737.

TTY (hearing impaired): 1-800-635-4512.

Facsimile: 301-415-3548.

E-mail: pdr@nrc.gov.

U. S. Mail: Public Document Room, (O1F13), U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
Onsite at the PDR: One White Flint North, 11555 Rockville Pike (first floor), Rockville MD.

Hours of PDR operation:

Reading Room: 7:45 a.m.—4:15 p.m. eastern time, Federal Workdays.

Telephone Service: 8:30 a.m.—4:15 p.m., eastern time, Federal Workdays.

7.2 References

NRC, EIE Web site; <http://www.nrc.gov/site-help/eie.html>

The Code of Federal Regulations, Title 10—Energy <http://www.nrc.gov>. Select “Code of Federal Regulations” from the Index found on the home page.

Freedom of Information Act, 5 U.S.C. 552
Privacy Act, 5 U.S.C. 552a

[FR Doc. 02-21889 Filed 9-5-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**10 CFR Chapter I**

RIN 3150-AF61

Electronic Maintenance and Submission of Information**AGENCY:** Nuclear Regulatory Commission.**ACTION:** Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its rules to clarify when and how licensees and other members of the public may use electronic means such as CD-ROM and e-mail to communicate with the agency. These amendments are necessary to implement the Government Paperwork Elimination Act (GPEA). In the Rules and Regulations section of this **Federal Register**, the NRC is publishing a direct final rule on this subject, because the Agency views this action as noncontroversial and anticipates that it will not receive significant adverse comments. A detailed rationale for the rulemaking is set forth in the direct final rule notice. If the NRC does not receive any significant adverse comments on this rule, then the rule will become final without further proceedings. If the NRC receives significant material and adverse comments, the direct final rule will be withdrawn and the NRC will address all public comments received in a later final rule based on this proposed rule. The NRC will not begin a second comment period. At the same time that the NRC is proposing to amend its rules, it is also making available guidance on how to submit documents to the agency electronically. The guidance is

appended to the **Federal Register** publication of the direct final rule. When the final rule becomes effective, this new guidance document will supersede earlier guidance on electronic submissions.

DATES: The comment period for this proposed rule ends on October 21, 2002. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered. The NRC staff will hold a public meeting to answer questions on issues arising from this action on October 3, 2002.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. Federal workdays.

Comments may also be submitted via the NRC's interactive rulemaking Web site at <http://ruleforum.llnl.gov>. This site permits a commenter to upload comments as files (most formats), if the commenter's Web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301-415-5905, CAG@nrc.gov.

Comments received may be viewed and downloaded electronically via the interactive rulemaking Web site. Comments will also be available electronically for public inspection in the Publicly Available Records System (PARS) Library component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC's Web site at

<http://www.nrc.gov> by selecting "Documents in ADAMS" from the index, and at the NRC Public Document Room (PDR). The PDR is located at One White Flint North, 11555 Rockville Pike, (First Floor), Rockville, MD. If you do not have access to ADAMS, or if you have difficulty accessing the documents in ADAMS, contact the NRC Public Document Room Reference Staff by phone at 1-800-397-4209 or 301-415-4737, or by e-mail to pdr@nrc.gov. The guidance the agency is issuing as an appendix to the direct final rule is also available via ADAMS at the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail at EIE@nrc.gov, or by writing to the Applications Development Division, Office of the Chief Information Officer, at the main NRC address, given under the **ADDRESSES** heading above.

The public meeting will be held in the auditorium at NRC Headquarters, Two White Flint North, 11545 Rockville, MD, beginning at 8:30 a.m. and ending about 12:30 p.m.

FOR FURTHER INFORMATION CONTACT: John A. Skoczlas, 301-415-7186, EIE@nrc.gov; or Brenda J. Shelton, 301-415-7233, bjs1@nrc.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title, which is found in the Rules and Regulations section of this **Federal Register**.

Dated at Rockville Maryland, this 22nd day of August, 2002.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 02-21888 Filed 9-5-02; 8:45 am]

BILLING CODE 7590-01-P



Federal Register

**Friday,
September 6, 2002**

Part IV

Department of the Interior

Office of the Secretary

**Interior Board of Indian Appeals, Office
of Hearings and Appeals; Review of
Historical Trust Accounting; Notice**

DEPARTMENT OF THE INTERIOR**Office of the Secretary****Interior Board of Indian Appeals, Office of Hearings and Appeals; Review of Historical Trust Accounting**

AGENCY: Office of the Secretary; Interior Board of Indian Appeals; Office of Hearings and Appeals, Interior.

ACTION: Notice of appeal procedures and practice.

DATES: This notice is effective immediately.

ADDRESSES: Office of the Secretary, Department of the Interior, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Robert More, Office of Hearings and Appeals, 801 N. Quincy Street, Suite 300, Arlington, VA 22203.

SUMMARY: Notice is hereby given that the Secretary of the Interior has directed the Interior Board of Indian Appeals, Office of Hearings and Appeals, pursuant to 43 CFR 4.1(b)(2)(ii) and 4.330(a)(2), and Secretarial Order No. 3242, to exercise administrative review authority for appeals from all historical accountings by the Office of Historical Trust Accounting. The Procedures and Practice specified in 43 CFR part 4 shall

apply to appeals from the Office of Historical Trust Accounting to the Interior Board of Indian Appeals. References to the Bureau of Indian Affairs in such Procedures and Practices (including those in 43 CFR 4.331(c), 4.312, 4.314(a), 4.318, 4.331, 4.332, 4.333, 4.335, 4.338, and 4.340) shall be deemed also to apply to the Office of Historical Trust Accounting for the purpose of administrative review by the Interior Board of Indian Appeals.

Dated: September 5, 2002.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 02-22917 Filed 9-5-02; 1:05 pm]

BILLING CODE 4310-02-M

Reader Aids

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ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: <http://www.access.gpo.gov/nara>Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: <http://www.nara.gov/fedreg>

E-mail

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The Federal Register staff cannot interpret specific documents or regulations.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P.L.U.S." (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg/plawcurr.html>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/nara005.html>. Some laws may not yet be available.

H.R. 223/P.L. 107-211

To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act. (Aug. 21, 2002; 116 Stat. 1050)

H.R. 309/P.L. 107-212

Guam Foreign Investment Equity Act (Aug. 21, 2002; 116 Stat. 1051)

H.R. 601/P.L. 107-213

To redesignate certain lands within the Craters of the Moon National Monument, and for other purposes. (Aug. 21, 2002; 116 Stat. 1052)

H.R. 1384/P.L. 107-214

Long Walk National Historic Trail Study Act (Aug. 21, 2002; 116 Stat. 1053)

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Booker T. Washington National Monument Boundary Adjustment Act of 2002 (Aug. 21, 2002; 116 Stat. 1054)

H.R. 1576/P.L. 107-216

James Peak Wilderness and Protection Area Act (Aug. 21, 2002; 116 Stat. 1055)

H.R. 2068/P.L. 107-217

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, "Public Buildings, Property, and Works". (Aug. 21, 2002; 116 Stat. 1062)

H.R. 2234/P.L. 107-218

Tumacacori National Historical Park Boundary Revision Act of 2002 (Aug. 21, 2002; 116 Stat. 1328)

H.R. 2440/P.L. 107-219

To rename Wolf Trap Farm Park as "Wolf Trap National Park for the Performing Arts", and for other purposes. (Aug. 21, 2002; 116 Stat. 1330)

H.R. 2441/P.L. 107-220

To amend the Public Health Service Act to redesignate a facility as the National Hansen's Disease Programs Center, and for other purposes. (Aug. 21, 2002; 116 Stat. 1332)

H.R. 2643/P.L. 107-221

Fort Clatsop National Memorial Expansion Act of 2002 (Aug. 21, 2002; 116 Stat. 1333)

H.R. 3343/P.L. 107-222

To amend title X of the Energy Policy Act of 1992, and for other purposes. (Aug. 21, 2002; 116 Stat. 1336)

H.R. 3380/P.L. 107-223

23 To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park. (Aug. 21, 2002; 116 Stat. 1338)

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